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CHAPTER 3

International Criminal Law

A. EXTRADITION AND MUTUAL LEGAL ASSISTANCE

1. Extradition Treaty and MLAT with the Republic of Croatia

On June 18, 2020, the President transmitted to the Senate for consideration the Agreement between the Government of the United States of America and the Government of the Republic of Croatia comprising the instrument as contemplated by Article 3(2) of the Agreement on Extradition between the United States of America and the European Union, signed June 25, 2003, as to the Application of the Treaty on Extradition signed on October 25, 1901 (the “U.S.-Croatia Extradition Agreement”), and the Agreement between the Government of the United States and the Government of the Republic of Croatia comprising the Instrument as contemplated by Article 3(3) of the Agreement on Mutual Legal Assistance between the United States of America and the European Union signed at Washington on June 25, 2003 (the “U.S.-Croatia Mutual Legal Assistance Agreement”), both signed at Washington on December 10, 2019. Treaty Document 116-2, available at <https://www.congress.gov/treaty-document/116th-congress/2?s=3&r=3>. See *Digest 2019* at 57-58 regarding the signing of these treaties with Croatia. The President’s letter of transmittal follows.

* * * *

With a view to receiving advice and consent of the Senate to ratification, I transmit herewith the Agreement between the Government of the United States of America and the Government of the Republic of Croatia comprising the instrument as contemplated by Article 3(2) of the Agreement on Extradition between the United States of America and the European Union, signed June 25, 2003, as to the Application of the Treaty on Extradition signed on October 25, 1901 (the “U.S.-

Croatia Extradition Agreement”), and the Agreement between the Government of the United States and the Government of the Republic of Croatia comprising the Instrument as contemplated by Article 3(3) of the Agreement on Mutual Legal Assistance between the United States of America and the European Union signed at Washington on June 25, 2003 (the “U.S.-Croatia Mutual Legal Assistance Agreement”), both signed at Washington on December 10, 2019. I also transmit, for the information of the Senate, the report of the Department of State with respect to the U.S.-Croatia Extradition and Mutual Legal Assistance Agreements. Following Croatia's accession to the European Union on July 1, 2013, these two agreements fulfill the requirements, in respect of Croatia, for implementing bilateral instruments between the United States and each member of the European Union contained in the Agreements on Extradition and Mutual Legal Assistance between the United States of America and the European Union, both of which entered into force on February 1, 2010.

The U.S.-Croatia Extradition Agreement modernizes in important respects the Treaty between the United States of America and the Kingdom of Serbia for the Extradition of Fugitives from Justice, signed October 25, 1901 (the “1901 Extradition Treaty”), which is currently in force between the United States of America and the Republic of Croatia. Most significantly, it replaces the outdated list of extraditable offenses with the modern “dual criminality” approach, thereby enabling coverage of newer offenses, such as cyber-related crimes, environmental offenses, and money laundering. In addition, it includes several provisions updating and streamlining procedural requirements for preparing and transmitting extradition documents.

The U.S.-Croatia Mutual Legal Assistance Agreement formalizes and strengthens the institutional framework for legal assistance between the United States of America and the Republic of Croatia in criminal matters. Because the United States of America and the Republic of Croatia do not have a bilateral mutual legal assistance treaty in force, the U.S.-Croatia Mutual Legal Assistance Agreement is a partial treaty governing only those issues regulated by the U.S.-European Union Mutual Legal Assistance Agreement, specifically: identification of bank information, joint investigative teams, video-conferencing, expedited transmission of requests, assistance to administrative authorities, use limitations, confidentiality, and grounds for refusal. This approach is consistent with that taken with other European Union member states (Bulgaria, Denmark, Finland, Malta, Portugal, Slovak Republic, and Slovenia) with which the United States does not have an existing mutual legal assistance treaty.

I recommend that the Senate give early and favorable consideration to the U.S.-Croatia Extradition Agreement and the U.S.-Croatia Mutual Legal Assistance Agreement.

* * * *

2. Universal Jurisdiction

On November 3, 2020, Deputy Legal Adviser Julian Simcock delivered the U.S. statement at the 75th General Assembly Sixth Committee meeting on the principle of universal jurisdiction. His statement is excerpted below and available at <https://usun.usmission.gov/statement-at-the-75th-un-general-assembly-sixth-committee-on-agenda-item-number-87-scope-and-application-of-the-principle-of-universal-jurisdiction/>.

* * * *

We greatly appreciate the Sixth Committee's continued interest in this important topic. We thank the Secretary-General for his reports, which have usefully summarized the submissions made by States on this topic.

Despite the importance of this issue and its long history as part of international law relating to piracy, the United States' view continues to be that basic questions remain regarding how jurisdiction should be exercised in relation to universal crimes, and States' views and practices related to the topic.

In the years since the Committee took up this issue, we have engaged in thoughtful discussions on a number of important topics regarding universal jurisdiction, including with respect to its definition, scope, and application. The submissions made by States to date, the work of the Working Group in this Committee, and the Secretary-General's reports have been valuable in helping us to identify differences of opinion among States as well as points of consensus on this issue. We remain interested in further exploring issues related to the practical application of universal jurisdiction.

The United States continues to analyze the contributions of other States and organizations. We welcome this Committee's continued consideration of this issue and the input of more States about their own practice. We look forward to exploring these issues in as practical a manner as possible.

* * * *

B. INTERNATIONAL CRIMES

1. Terrorism

a. Transmittal of Treaties

(1) Convention on the Suppression of Unlawful Acts Relating to International Civil Aviation ("Beijing Convention")

On June 18, 2020, the President transmitted to the Senate for consideration the Convention on the Suppression of Unlawful Acts Relating to International Civil Aviation (the "Beijing Convention"), adopted by the International Civil Aviation Organization International Conference on Air Law (Diplomatic Conference on Aviation Security) in Beijing on September 10, 2010, and signed by the United States on that same date. Treaty Document 116-3, available at <https://www.congress.gov/treaty-document/116th-congress/3?s=3&r=2>. The President's letter of transmittal follows.

* * * *

With a view to receiving the advice and consent of the Senate to ratification, I transmit herewith the Convention on the Suppression of Unlawful Acts Relating to International Civil Aviation (the “Beijing Convention”), adopted by the International Civil Aviation Organization International Conference on Air Law (Diplomatic Conference on Aviation Security) in Beijing on September 10, 2010, and signed by the United States on that same date. I also transmit, for the information of the Senate, the report of the Department of State with respect to the Beijing Convention.

The Beijing Convention is an important component of international efforts to prevent and punish both terrorism targeting civil aviation and the proliferation of weapons of mass destruction. As between parties to the Beijing Convention, it replaces and supersedes the Convention for the Suppression of Unlawful Acts Against the Safety of Civil Aviation, done at Montreal, September 23, 1971, and its supplementary protocol, the Protocol for the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation, done at Montreal, February 24, 1988. It significantly strengthens the existing international counterterrorism legal framework and facilitates the prosecution and extradition of those who seek to commit acts of terror, including acts such as those committed on September 11, 2001.

The Beijing Convention establishes the first international treaty framework that criminalizes certain terrorist acts, including using an aircraft in a terrorist activity and certain acts relating to the transport of weapons of mass destruction or related materials by aircraft. The Beijing Convention requires States Parties to criminalize specified acts under their domestic laws and to cooperate to prevent and investigate suspected crimes under the Beijing Convention. It includes an “extradite or prosecute” obligation with respect to persons accused of committing, attempting to commit, conspiring to commit, or aiding in the commission of such offenses.

Some changes to United States law will be needed for the United States to implement provisions of the Beijing Convention obligating the United States to criminalize certain offenses, make those offenses punishable by appropriate penalties, and authorize the assertion of jurisdiction over such offenses. Proposed legislation is being separately transmitted by my Administration to the Congress.

I recommend that the Senate give early and favorable consideration to the Beijing Convention, subject to a reservation and certain understandings that are described in the accompanying report of the Department of State.

* * * *

(2) *Protocol Supplementary to the Convention for the Suppression of Unlawful Seizure of Aircraft (“Beijing Protocol”)*

On June 18, 2020, the President transmitted to the Senate for its consideration the Protocol Supplementary to the Convention for the Suppression of Unlawful Seizure of Aircraft (the “Beijing Protocol”), adopted by the International Civil Aviation Organization International Conference on Air Law (Diplomatic Conference on Aviation Security) in Beijing on September 10, 2010, and signed by the United States on that same date. Treaty Document 116-4, available at <https://www.congress.gov/treaty-document/116th-congress/4/document-text?r=1&s=3>. The President’s letter of transmittal follows.

* * * *

With a view to receiving the advice and consent of the Senate to ratification, I transmit herewith the Protocol Supplementary to the Convention for the Suppression of Unlawful Seizure of Aircraft (the “Beijing Protocol”), adopted by the International Civil Aviation Organization International Conference on Air Law (Diplomatic Conference on Aviation Security) in Beijing on September 10, 2010, and signed by the United States on that same date. I also transmit, for the information of the Senate, the report of the Department of State with respect to the Beijing Protocol.

The Beijing Protocol is an important component of international efforts to prevent and punish terrorism targeting civil aviation. It supplements the Convention for the Suppression of Unlawful Seizure of Aircraft, done at The Hague on December 16, 1970 (the “Hague Convention”), and fills several gaps in the existing international legal framework for combatting global terrorism. It will significantly advance cooperation between States Parties in the prevention of the full range of unlawful acts relating to civil aviation and in the prosecution and punishment of offenders.

The Beijing Protocol amends the existing hijacking offense in the Hague Convention to cover hijackings that occur pre- or post-flight and addresses situations in which the offender may attempt to control an aircraft from outside of the aircraft, such as by remotely interfering with flight operation or data transmission systems. The Beijing Protocol requires States Parties to criminalize these acts under their domestic laws and to cooperate to prevent and investigate suspected crimes under the Beijing Protocol. It includes an “extradite or prosecute” obligation with respect to persons accused of committing, attempting to commit, conspiring to commit, or aiding in the commission of such offenses.

Some changes to United States law will be needed for the United States to implement provisions of the Beijing Protocol, obligating the United States to criminalize certain offenses, make those offenses punishable by appropriate penalties, and authorize the assertion of jurisdiction over such offenses. Proposed legislation is being separately transmitted by my Administration to the Congress.

I recommend that the Senate give early and favorable consideration to the Beijing Protocol, subject to a reservation and certain understandings that are described in the accompanying report of the Department of State.

* * * *

b. Determination of Countries Not Fully Cooperating with U.S. Antiterrorism Efforts

On May 11, 2020, Secretary of State Pompeo determined and certified pursuant to, *inter alia*, section 40A of the Arms Export Control Act (22 U.S.C. § 2781), that certain countries “are not cooperating fully with United States antiterrorism efforts.” 85 Fed. Reg. 33,772 (June 2, 2020). The countries are: Iran, Democratic People’s Republic of Korea, Syria, Venezuela, and Cuba. On May 13, 2020, the State Department issued a media note about the determination and certification, which is available at

<https://2017-2021.state.gov/countries-certified-as-not-cooperating-fully-with-u-s-counterterrorism-efforts/>, and excerpted below.

* * * *

...This is the first year that Cuba has been certified as not fully cooperating since 2015. This certification prohibits the sale or license for export of defense articles and services and notifies the U.S. public and international community that these countries are not fully cooperating with U.S. counterterrorism efforts.

Iran: In 2019, Iran continued to be the world's largest state sponsor of terrorism, supporting Hizballah, Palestinian terrorist groups, and other terrorist groups operating throughout the Middle East. In 2019, Iran maintained its support for various Iraqi Shia terrorist groups, including Kata'ib Hizballah (KH), Harakat al-Nujaba (HAN), and Asa'ib Ahl al-Haq (AAH). Iran's Islamic Revolutionary Guard Corps (IRGC), a designated Foreign Terrorist Organization, has been directly involved in terrorist plotting and has killed U.S. citizens. The IRGC—most prominently through its Qods Force—has the greatest role among Iranian regime actors in directing and carrying out a global terrorist campaign.

North Korea: In 2019, four Japanese individuals who participated in the 1970 hijacking of a Japan Airline flight continued to live in the DPRK. The Japanese government also continued to seek a full account of the fate of 12 Japanese nationals believed to have been abducted by DPRK state entities in the 1970s and 1980s.

Syria: Syria has continued its political and military support for terrorist groups, including the provision of weapons and political support to Hizballah. The Assad regime's relationship with Hizballah and Iran grew stronger in 2019 as the regime became more reliant on external actors to fight opponents and secure areas. The IRGC and IRGC-backed militias remain present and active in the country with the permission of President Bashar al-Assad.

Venezuela: In 2019, Maduro and members of his former regime in Venezuela continued to provide permissive environments for terrorists in the region to maintain a presence. While Maduro was not the recognized President of Venezuela during this period, his control within Venezuela effectively precluded cooperation with the United States on counterterrorism efforts. Individuals linked to Revolutionary Armed Forces of Colombia (FARC) dissidents (who remain committed to terrorism notwithstanding the peace accord) and the National Liberation Army (ELN) were present in the country. The U.S. Department of Justice has criminally charged Maduro and certain other former regime members with running a narco-terrorism partnership with the FARC for the past 20 years.

Cuba: Members of the ELN, who travelled to Havana to conduct peace talks with the Colombian government in 2017, remained in Cuba in 2019. Citing peace negotiation protocols, Cuba refused Colombia's request to extradite ten ELN leaders living in Havana after the group claimed responsibility for the January 2019 bombing of a Bogota police academy that killed 22 people and injured more than 60 others. As the United States maintains an enduring security partnership with Colombia and shares with Colombia the important counterterrorism objective of combating organizations like the ELN, Cuba's refusal to productively engage with the Colombian government demonstrates that it is not cooperating with U.S. work to support Colombia's efforts to secure a just and lasting peace, security, and opportunity for its people.

Cuba harbors several U.S. fugitives from justice wanted on charges of political violence, many of whom have resided in Cuba for decades. For example, the Cuban regime has refused to return Joanne Chesimard, who was convicted of executing New Jersey State Trooper Werner Foerster in 1973. The Cuban Government provides housing, food ration books, and medical care for these individuals.

* * * *

c. *State Sponsors of Terrorism*

See Chapter 16 for discussion of the State Department's 2020 rescission of the designation of Sudan as a State Sponsor of Terrorism ("SST").

d. *Country Reports on Terrorism*

On June 24, 2020, the State Department released its annual Country Reports on Terrorism, detailing key developments in 2019 in the global fight against ISIS, al-Qa'ida, Iran-supported terrorist groups, and other terrorist groups. See State Department media note, available at <https://2017-2021.state.gov/u-s-state-department-issues-country-reports-on-terrorism-2019/>. The annual report is submitted to Congress pursuant to 22 U.S.C. § 2656f, which requires the Department to provide Congress a full and complete annual report on terrorism for those countries and groups meeting the criteria set forth in the legislation. The report covers the 2019 calendar year and includes: policy-related assessments; country-by-country breakdowns of foreign government counterterrorism cooperation; and information on state sponsors of terrorism, terrorist safe havens, foreign terrorist organizations, and the global challenge of chemical, biological, radiological, and nuclear terrorism.

The media note highlights the portions of the report which note major strides to defeat and degrade international terrorism organizations in 2019 such as: the efforts of the Global Coalition to Defeat ISIS, the death of Abu Bakr al Baghdadi after a U.S. military raid on his compound in Syria, the U.S. designation of Iran's Islamic Revolutionary Guard Corps as a Foreign Terrorist Organization, an update of U.S. terrorism designation authorities, and terrorist designations by other governments in the Western Hemisphere and Europe of Hizballah. The media note also states that the report covers "U.S. efforts to address new and ongoing challenges, including the repatriation of foreign terrorist fighters, particularly to Western Europe; the expansion of ISIS branches and networks in Africa; and the threat of racially or ethnically motivated terrorism." The report can be accessed at <https://www.state.gov/reports/country-reports-on-terrorism-2019/>. Secretary Pompeo and Coordinator for Counterterrorism Ambassador Nathan Sales made remarks on the 2019 Country Reports on Terrorism at a press availability on June 24, 2020, which are available at <https://2017-2021.state.gov/secretary-michael-r-pompeo-at-a-press-availability-on-the-release-of-the-2019-country-reports-on-terrorism/>.

e. U.S. Actions Against Terrorist Groups

(1) General

Designations of organizations as Foreign Terrorist Organizations (“FTOs”) under § 219 of the Immigration and Nationality Act (“INA”), as amended by the Intelligence Reform and Terrorism Prevention Act of 2004 (“IRTPA”), Pub. L. No. 108-458, 118 Stat. 3638 (2004), expose and isolate the designated terrorist organizations, deny them access to the U.S. financial system, and create significant criminal and immigration consequences for their members and supporters. FTO designations can also assist or complement the law enforcement actions of other U.S. agencies and governments. On April 30, 2020, the Department of State issued a statement by Secretary Pompeo commending Germany for taking action against Hizballah in its entirety as a terrorist organization and against Hizballah supporters. The press statement, available at <https://2017-2021.state.gov/united-states-commends-germany-for-banning-hizballah/>, also mentions recent actions against Hizballah by Argentina, Colombia, Honduras, Kosovo, Paraguay, and the United Kingdom, and urges other EU member states to join them in holding Hizballah accountable for its terrorist activities. On September 13, 2020, a State Department press statement, available at <https://2017-2021.state.gov/u-s-welcomes-serbias-intention-to-designate-hizballah-as-a-terrorist-organization/>, welcomed Serbia’s announcement that it would designate Hizballah. The October 24, 2020 State Department press statement welcoming Estonia’s actions against Hizballah, available at <https://2017-2021.state.gov/u-s-welcomes-estonias-action-against-hizballah/>, says that Estonia prohibited Hizballah affiliates from entering its territory, recognizing that Hizballah “is a terrorist organization in its entirety.” Also on October 24, 2020, the Department of State welcomed Guatemala’s designation of Hizballah (in its entirety) as a terrorist organization in a press statement, available at <https://2017-2021.state.gov/u-s-welcomes-guatemalas-designation-of-hizballah-as-a-terrorist-organization/>. The press statement on Guatemala’s designation also urges U.S. partner states “to designate Hizballah in its entirety, and to recognize that there is no distinction between its so-called ‘military’ and ‘political’ wings.” On December 4, 2020, the State Department commended Slovenia for designating Hizballah in its entirety as a terrorist organization in a press statement available at <https://2017-2021.state.gov/u-s-commends-slovenia-for-designating-hizballah/>.

(2) Foreign Terrorist Organizations

(i) New Designation

In 2020, the Secretary of State designated one additional organization as an FTO. On January 2, 2020, Secretary Pompeo designated Asa’ib Ahl al-Haq (“AAH”) and its associated aliases as an FTO. 85 Fed. Reg. 1369 (Jan. 10, 2020).

(ii) *Reviews of FTO Designations*

During 2020, the Secretary of State continued to review designations of entities as FTOs, consistent with the procedures for reviewing and revoking FTO designations in § 219(a) of the INA. See *Digest 2005* at 113–16 and *Digest 2008* at 101–3 for additional details on the IRTPA amendments and review procedures.

(3) *Terrorist Exclusion List*

On October 20, 2020, the Secretary revoked the designation of the Eastern Turkistan Islamic Movement, also known as ETIM, as a “terrorist organization” under Section 212(a)(3)(B)(vi)(II) of the INA, thereby removing ETIM from the Terrorist Exclusion List (“TEL”). 85 Fed. Reg. 70,703 (Nov. 5, 2020). See *Digest 2001* at 896, 904, 921–23 and the Bureau of Counterterrorism webpage at <https://www.state.gov/terrorist-exclusion-list/> regarding the TEL.

(4) *Rewards for Justice (RFJ) Office*

On April 10, 2020, the U.S. Department of State announced an RFJ reward offer of up to \$10 million for information on the activities, networks, and associates of Muhammad Kawtharani, a senior Hizballah military commander. The media note announcing the offer, available at <https://2017-2021.state.gov/reward-offer-for-information-on-hizballahs-financial-networks-muhammad-kawtharani/>, elaborates on the activities of Kawtharani:

Muhammad Kawtharani is a senior leader of Hizballah’s forces in Iraq and has taken over some of the political coordination of Iran-aligned paramilitary groups formerly organized by Qassim Sulemani after Sulemani’s death in January. In this capacity, he facilitates the actions of groups operating outside the control of the Government of Iraq that have violently suppressed protests, attacked foreign diplomatic missions, and engaged in wide-spread organized criminal activity. As a member of Hizballah’s Political Council, Kawtharani has worked to promote Hizballah’s interests in Iraq, including Hizballah efforts to provide training, funding, political, and logistical support to Iraqi Shi’a insurgent groups.

The U.S. Department of the Treasury designated Kawtharani as a Specially Designated Global Terrorist in 2013.

See *Digest 2019* at 76–79 for discussion of the RFJ reward offer, announced in April 2019, for information leading to the disruption of the financial mechanisms of the global terrorist organization Lebanese Hizballah.

On May 28, 2020, the U.S. Department of State announced an RFJ reward offer of up to \$3 million for information leading to the location or identification of Muhammad Khadir Musa Ramadan, a senior leader of and key propagandist for ISIS. The media note announcing the offer, available at <https://2017-2021.state.gov/rewards-for-justice-reward-offer-for-information-on-muhammad-ramadan/>, describes Ramadan's activities:

Also known as Abu Bakr al-Gharib, Ramadan was born in Jordan.

He is one of ISIS's longest-serving senior media officials and oversees the group's daily media operations, including the management of content from ISIS's dispersed global network of supporters.

Ramadan has played a key role in ISIS's propaganda operations to radicalize, recruit, and incite individuals around the globe. He has overseen the planning, coordination, and production of numerous propaganda videos, publications, and online platforms that included brutal and cruel scenes of torture and mass execution of innocent civilians.

On August 26, 2020, the State Department announced an RFJ program reward offer of up to \$5 million for information concerning the kidnappings of Mark Randall Frerichs and Paul Edwin Overby, Jr., who disappeared in Afghanistan. The media note, available at <https://2017-2021.state.gov/rewards-for-justice-reward-offer-for-information-on-kidnapping-of-mark-randall-frerichs-and-paul-edwin-overby-jr/>, provides background:

Mr. Overby was last seen in Khost, Afghanistan, near the border with Pakistan, in mid-May of 2014. At the time of his disappearance, he was conducting research for a book he was writing and it appeared that he planned to cross the border into Pakistan in furtherance of his work.

Mark Frerichs was kidnapped in early February 2020. At the time of his kidnapping, he resided in Kabul. He moved to Afghanistan in approximately 2010 and worked on construction projects throughout the country.

On October 23, 2020, the State Department issued a media note reiterating its 2019 RFJ reward offer for information on Hizballah's financial mechanisms and specifically highlighting Muhammad Qasir, Muhammad Qasim al-Bazzal, and Ali Qasir, as key financiers and facilitators within Hizballah. The media note, available at <https://2017-2021.state.gov/rewards-for-justice-up-to-10-million-reward-offer-for-information-on-hizballahs-financial-networks-muhammad-qasir-muhammad-qasim-al-bazzal-and-ali-qasir/>, provides the following information on these individuals:

Muhammad Qasir is a critical link between Hizballah and its primary funder, Iran. He has been a significant conduit for financial disbursements from Iran's Islamic Revolutionary Guard Corps-Qods Force (IRGC-QF) to Hizballah. Qasir and other Hizballah officials oversee several front companies to hide the IRGC-QF's role in

selling crude oil, condensate, and gas oil, thus evading U.S. sanctions related to the IRGC. Qasir also directs the Hizballah unit that assists in the transfer of weapons, technology and other support from Syria to Lebanon.

Muhammad Qasim al-Bazzal is a key financier for Hizballah and the IRGC-QF. He also is a co-founder of the Syria-based Talaqi Group and oversees other terrorist financing enterprises, such as Hokoul S.A.L. Offshore and Nagham Al Hayat. Since late 2018, al-Bazzal has used the Talaqi Group and his other companies to finance, coordinate and obscure various illicit IRGC-QF-linked oil shipments. Al-Bazzal also has overseen Talaqi Group's partnership with Lebanon-based ALUMIX for aluminum shipments to Iran.

Ali Qasir is the managing director of the Hizballah-linked front company Talaqi Group. Ali Qasir assigns maritime vessels to deliver shipments for the terrorist network based on the IRGC-QF's guidance. Ali Qasir has overseen sales price negotiations and collaborated to cover expenses and to facilitate an Iranian oil shipment by the Adrian Darya 1 for the benefit of the IRGC-QF. Ali Qasir represents the Lebanon-based Hokoul company in negotiations over its supply of Iranian crude to Syria. Additionally, Ali Qasir has worked with others to use the Talaqi Group to facilitate the sale of tens of millions of dollars' worth of steel.

All three individuals have previously been designated by the U.S. Department of the Treasury as Specially Designated Global Terrorists.

More information about reward offers is available on the RFJ website at www.rewardsforjustice.net.

2. Narcotics

a. Majors List Process

(1) International Narcotics Control Strategy Report

On March 2, 2020, the Department of State submitted the 2020 International Narcotics Control Strategy Report ("INCSR"), an annual report to Congress required by § 489 of the Foreign Assistance Act of 1961, as amended, 22 U.S.C. § 2291h(a). The report describes the efforts of foreign governments to address all aspects of the international drug trade in calendar year 2019. Volume 1 of the report covers drug and chemical control activities and Volume 2 covers money laundering and financial crimes. The full text of the 2020 INCSR is available at <https://www.state.gov/2020-international-narcotics-control-strategy-report/>.

(2) Major Drug Transit or Illicit Drug Producing Countries

On September 16, 2020, the White House issued Presidential Determination No. 2020-11, "Presidential Determination on Major Drug Transit or Major Illicit Drug Producing

Countries for Fiscal Year 2021.” 85 Fed. Reg. 60,351 (Sep. 25, 2020). In this year’s determination, the President named 22 countries as countries meeting the definition of a major drug transit or major illicit drug producing country: Afghanistan, The Bahamas, Belize, Bolivia, Burma, Colombia, Costa Rica, Dominican Republic, Ecuador, El Salvador, Guatemala, Haiti, Honduras, India, Jamaica, Laos, Mexico, Nicaragua, Pakistan, Panama, Peru, and Venezuela. A country’s presence on the “Majors List” is not necessarily an adverse reflection of its government’s counternarcotics efforts or level of cooperation with the United States. The President determined that Bolivia and the Maduro regime in Venezuela “failed demonstrably” during the last twelve months to make sufficient or meaningful efforts to adhere to their obligations under international counternarcotics agreements. Simultaneously, the President determined that support for programs that support the legitimate interim government in Venezuela and the government of Bolivia are vital to the national interests of the United States, thus ensuring that such U.S. assistance would not be restricted during fiscal year 2021 by virtue of § 706(3) of the Foreign Relations Authorization Act, Fiscal Year 2003, Pub. L. No. 107-228, 116 Stat. 1350.

On February 15, 2020, Deputy Secretary of State Stephen E. Biegun made the determination and certification relating to the largest exporting and importing countries of certain precursor chemicals, under Section 490(b)(1)(A) of the Foreign Assistance Act of 1961, as amended. 85 Fed. Reg. 14,720 (Mar. 13, 2020). The Federal Register notice states:

...I hereby determine and certify that the top five exporting and top five importing countries and economies of pseudoephedrine and ephedrine (France, Germany, India, Indonesia, Iran, China (PRC), Republic of Korea, Singapore, Switzerland, Taiwan, Turkey, and the United Kingdom) have cooperated fully with the United States, or have taken adequate steps on their own, to achieve full compliance with the goals and objectives established by the 1988 United Nations Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances.

b. *Interdiction Assistance*

On July 17, 2020, the President of the United States again certified, with respect to Colombia (Presidential Determination No. 2020-09, 85 Fed. Reg. 45,751 (July 29, 2020)), that (1) interdiction of aircraft reasonably suspected to be primarily engaged in illicit drug trafficking in that country’s airspace is necessary because of the extraordinary threat posed by illicit drug trafficking to the national security of that country; and (2) Colombia has appropriate procedures in place to protect against innocent loss of life in the air and on the ground in connection with such interdiction, which includes effective means to identify and warn an aircraft before the use of force is directed against the aircraft. President Trump made his determination pursuant to § 1012 of the National Defense Authorization Act for Fiscal Year 1995, as amended, 22 U.S.C. §§ 2291–4. For

background on § 1012, see *Digest 2008* at 114.

c. *Narcotics Rewards Program*

On March 26, 2020, the U. S. Department of State announced rewards under its Narcotics Rewards Program (“NRP”) for information leading to the arrest and/or conviction of Venezuelan nationals indicted in the United States for international narcotics trafficking. See State Department press statement, available at <https://2017-2021.state.gov/department-of-state-offers-rewards-for-information-to-bring-venezuelan-drug-traffickers-to-justice/>. Those subjects of the unsealed indictment by the Department of Justice and the reward offer are: Nicolás Maduro Moros, Diosdado Cabello Rondón, Hugo Carvajal Barrios, Clíver Alcalá Cordones, and Tareck Zaidan El Aissami Maddah. The reward offers are: up to \$15 million for information related to Nicolás Maduro Moros; and up to \$10 million each for information related to Diosdado Cabello Rondón (President of the illegitimate National Constituent Assembly), General (retired) Hugo Carvajal Barrios (former Director of Venezuela’s military intelligence), Clíver Alcalá Cordones (Major General (retired) in Venezuela’s Army), and Tareck Zaidan El Aissami Maddah (Minister for Industry and National Production).

On June 18, 2020, the U.S. Department of State announced rewards under the NRP up to \$10 million each for information leading to the arrest and/or conviction of Seuxis Hernandez-Solarte, aka “Jesus Santrich,” and Luciano Marin Arango, aka “Ivan Marquez.” The press statement announcing the rewards, available at <https://2017-2021.state.gov/department-of-state-offers-rewards-for-information-to-bring-colombian-drug-traffickers-to-justice/>, explains that “both are former senior leaders of the FARC who dropped out of the peace process and have a long history of involvement in drug trafficking activities, which resulted in their criminal indictments.”

3. *Trafficking in Persons*

a. *New executive order*

On January 31, 2020, President Trump issued Executive Order 13903, “Combating Human Trafficking and Online Child Exploitation in the United States.” 85 Fed. Reg. 6721 (Feb. 5, 2020). Excerpts follow from the order.

* * * *

Sec. 2. *Strengthening Federal Responsiveness to Human Trafficking.* (a) The Domestic Policy Council shall commit one employee position to work on issues related to combating human trafficking occurring into, from, and within the United States and to coordinate with personnel in other components of the Executive Office of the President, including the Office of Economic

Initiatives and the National Security Council, on such efforts. This position shall be filled by an employee of the executive branch detailed from the Department of Justice, the Department of Labor, the Department of Health and Human Services, the Department of Transportation, or the Department of Homeland Security.

(b) The Secretary of State, on behalf of the President's Interagency Task Force to Monitor and Combat Trafficking in Persons, shall make available, online, a list of the Federal Government's resources to combat human trafficking, including resources to identify and report instances of human trafficking, to protect and support the victims of trafficking, and to provide public outreach and training.

(c) The Secretary of State, the Attorney General, the Secretary of Labor, the Secretary of Health and Human Services, and the Secretary of Homeland Security shall, in coordination and consistent with applicable law:

(i) improve methodologies of estimating the prevalence of human trafficking, including in specific sectors or regions, and monitoring the impact of anti-trafficking efforts and publish such methodologies as appropriate; and

(ii) establish estimates of the prevalence of human trafficking in the United States.

Sec. 3. *Prosecuting Human Traffickers and Individuals Who Exploit Children Online.* (a) The Attorney General, through the Federal Enforcement Working Group, in collaboration with the Secretary of Labor and the Secretary of Homeland Security, shall:

(i) improve interagency coordination with respect to targeting traffickers, determining threat assessments, and sharing law enforcement intelligence to build on the Administration's commitment to the continued success of ongoing anti-trafficking enforcement initiatives, such as the Anti-Trafficking Coordination Team and the U.S.-Mexico Bilateral Human Trafficking Enforcement Initiatives; and

(ii) coordinate activities, as appropriate, with the Task Force on Missing and Murdered American Indians and Alaska Natives as established by Executive Order 13898 of November 26, 2019 (Establishing the Task Force on Missing and Murdered American Indians and Alaska Natives).

(b) The Attorney General and the Secretary of Homeland Security, and other heads of executive departments and agencies as appropriate, shall, within 180 days of the date of this order, propose to the President, through the Director of the Domestic Policy Council, legislative and executive actions that would overcome information-sharing challenges and improve law enforcement's capabilities to detect in real-time the sharing of child sexual abuse material on the internet, including material referred to in Federal law as "child pornography." Overcoming these challenges would allow law enforcement officials to more efficiently identify, protect, and rescue victims of online child sexual exploitation; investigate and prosecute alleged offenders; and eliminate the child sexual abuse material online.

Sec. 4. *Protecting Victims of Human Trafficking and Child Exploitation.* (a) The Attorney General, the Secretary of Health and Human Services, and the Secretary of Homeland Security, and other heads of executive departments and agencies as appropriate, shall work together to enhance capabilities to locate children who are missing, including those who have run away from foster care and those previously in Federal custody, and are vulnerable to human trafficking and child exploitation. In doing so, such heads of executive departments and agencies, shall, as appropriate, engage social media companies; the technology industry; State, local, tribal and territorial child welfare agencies; the National Center for Missing and Exploited Children; and law enforcement at all levels.

(b) The Secretary of Health and Human Services, in consultation with the Secretary of Housing and Urban Development, shall establish an internal working group to develop and incorporate practical strategies for State, local, and tribal governments, child welfare agencies, and faith-based and other community organizations to expand housing options for victims of human trafficking.

Sec. 5. Preventing Human Trafficking and Child Exploitation Through Education Partnerships. The Attorney General and the Secretary of Homeland Security, in coordination with the Secretary of Education, shall partner with State, local, and tribal law enforcement entities to fund human trafficking and child exploitation prevention programs for our Nation's youth in schools, consistent with applicable law and available appropriations.

* * * *

b. Trafficking in Persons Report

In June 2020, the Department of State released the 20th edition of the annual Trafficking in Persons Report pursuant to § 110(b)(1) of the Trafficking Victims Protection Act of 2000 ("TVPA"), Div. A, Pub. L. No. 106-386, 114 Stat. 1464, as amended, 22 U.S.C. § 7107. The report covers the period April 2019 through March 2020 and evaluates the anti-trafficking efforts of countries around the world. Through the report, the Department determines the ranking of countries as Tier 1, Tier 2, Tier 2 Watch List, or Tier 3 based on an assessment of their efforts with regard to the minimum standards for the elimination of trafficking in persons as set out by the TVPA, as amended. The 2020 report lists 19 countries as Tier 3 countries, making them subject to certain restrictions on assistance in the absence of a Presidential national interest waiver. For details on the Department of State's methodology for designating states in the report, see *Digest 2008* at 115–17. The report is available at <https://www.state.gov/reports/2020-trafficking-in-persons-report/>. Chapter 6 in this *Digest* discusses the determinations relating to child soldiers.

On June 25, 2020, Secretary Pompeo delivered remarks at the 2020 Trafficking in Persons Report launch ceremony. Their remarks are excerpted below and available at <https://2017-2021.state.gov/at-the-2020-trafficking-in-persons-report-launch-ceremony/>.

* * * *

Last year, President Trump restricted certain types of assistance to the governments of 15 countries that were ranked Tier 3—the lowest possible designation—in the 2019 TIP Report.

In January of this year, the President hosted a White House Summit on Human Trafficking. He signed an executive order to combat human trafficking, online child exploitation here in the United States.

This administration has ensured that nearly half a billion dollars is dedicated to the global fight against both sex and labor trafficking.

Today we continue this good work.

I'd like to share just a few highlights from this report, starting with some really good news:

Twenty-two countries received upgrade this year, 13 of them from Sub-Saharan Africa. Namibia received a Tier 1 rating—the best possible. It is the first and only African country to do so since 2012. Congratulations on that good work.

I also want to recognize Singapore—the report's other newly ranked Tier 1 country—and Bolivia for their progress to increase convictions and identify victims, among other significant improvements.

Unfortunately, the report also calls out a group of nations whose state-sponsored pattern[s] of forced labor have designated them in the Tier 3 category.

Among them are China, where the Chinese Communist Party and its state-owned enterprises often force citizens to work in horrendous conditions on Belt and Road projects.

Then there's Cuba. Up to 50,000 Cuban doctors have been forced by the Castro regime into human trafficking situations in more than 60 countries around the globe. They are the regime's number one source of income.

And in Central Asia, some governments have a long-standing history of compelling people to work in the cotton industry and other sectors.

Uzbekistan's significant efforts to address this are setting a new standard for others in the region.

We take government-sponsored trafficking very seriously. It's a perversion of any government's reason for existence: to protect rights, not crush them. The United States will not stand by as any government with a policy or pattern of human trafficking subjects its own citizens to this kind of oppression.

We will work tirelessly in the United States to free those who are still enslaved.

We will help restore the lives of those who have been freed.

And we will punish their tormentors.

* * * *

c. *Presidential Determination*

Consistent with § 110(c) of the Trafficking Victims Protection Act, as amended, 22 U.S.C. § 7107, the President annually submits to Congress notification of one of four specified determinations with respect to “each foreign country whose government, according to [the annual Trafficking in Persons report]—(A) does not comply with the minimum standards for the elimination of trafficking; and (B) is not making significant efforts to bring itself into compliance.” The four determination options are set forth in § 110(d)(1)–(4).

On September 28, 2020, the President issued a memorandum for the Secretary of State, “Presidential Determination With Respect to the Efforts of Foreign Governments Regarding Trafficking in Persons.” 85 Fed. Reg. 71,209 (Nov. 6, 2020). The President's memorandum conveys determinations concerning the countries that the 2020 Trafficking in Persons Report lists as Tier 3 countries. See Chapter 3.B.3.b., *supra*, for discussion of the 2020 report.

4. Money Laundering and Financial Crimes

a. Trilateral agreement for return of stolen assets to Nigeria

On February 3, 2020, the U.S. government, the Bailiwick of Jersey, and the Government of the Federal Republic of Nigeria signed an agreement for the return of more than \$308 million in stolen assets to the Nigerian people. Former Nigerian military dictator Sani Abacha stole the assets and hid them in foreign accounts. A February 4, 2020 State Department press statement announcing the agreement is available at <https://2017-2021.state.gov/return-of-stolen-assets-to-the-nigerian-people/> and includes the following:

The funds will be used by the Nigeria Sovereign Investment Authority for three infrastructure projects in strategic economic zones across Nigeria. To ensure that the funds are used responsibly and for the good of the nation, the agreement includes mechanisms for monitoring the implementation of these projects as well as external oversight, and it requires Nigeria to repay any funds lost as a result of any new corruption or fraud to the account established to hold the returned assets. This return reflects the growing international consensus that countries must work together to ensure stolen assets are returned in a transparent and accountable manner. It is also consistent with the commitments both the United States and Nigeria made under the principles agreed to at the 2017 Global Forum on Asset Recovery co-hosted by the United States and the United Kingdom.

This agreement is a symbol of the weight that the United States government places on the fight against corruption. We welcome President Buhari's personal commitment to that fight, and we will continue to support civil society and other Nigerian efforts to combat corruption at all levels. The fight against corruption is an investment in the future of Nigeria.

On February 3, 2020, the U.S. Department of Justice issued a press release on the trilateral agreement with Nigeria and Jersey, which is available at <https://www.justice.gov/opa/pr/us-enters-trilateral-agreement-nigeria-and-jersey-repatriate-over-300-million-nigeria-assets>. Excerpts follow from the Justice Department press release.

* * * *

The Department of Justice, on behalf of the U.S. government, has executed a trilateral agreement with the governments of the Federal Republic of Nigeria (Nigeria) and the Bailiwick of Jersey (Jersey) to repatriate to Nigeria approximately \$308 million traceable to the kleptocracy of former Nigerian dictator Sani Abacha and his co-conspirators.

In 2014, U.S. District Judge John D. Bates for the District of Columbia entered judgment forfeiting approximately \$500 million located in accounts around the world, as the result of a civil forfeiture complaint the Department of Justice filed against more than \$625 million traceable to money laundering involving the proceeds of Abacha's corruption. After appeals in the United States were exhausted in 2018, the government of Jersey enforced the U.S. judgment against over \$308 million located in that jurisdiction.

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The forfeited assets represent corrupt monies laundered during and after the military regime of General Abacha, who assumed the office of the president of the Federal Republic of Nigeria through a military coup on Nov. 17, 1993, and held that position until his death on June 8, 1998. The complaint alleges that General Abacha, his son Mohammed Sani Abacha, their associate Abubakar Atiku Bagudu and others embezzled, misappropriated and extorted billions from the government of Nigeria and others, then laundered their criminal proceeds through U.S. financial institutions and the purchase of bonds backed by the United States. Jersey's cooperation in the investigation, restraint and enforcement of the U.S. judgment, along with the valuable contributions of Nigeria and other law enforcement partners around the world, have been instrumental to the recovery of these funds.

Under the trilateral agreement signed today, the United States and Jersey will transfer 100 percent of the net forfeited assets to the Federal Republic of Nigeria to support three critical infrastructure projects in Nigeria that were previously authorized by Nigerian president Muhammadu Buhari and the Nigerian legislature. Specifically, the laundered funds under this agreement will help finance the construction of the Second Niger Bridge, the Lagos-Ibadan Expressway and the Abuja-Kano road—investments that will benefit the citizens of each of these important regions in Nigeria.

The agreement includes key measures to ensure the transparency and accountability, including administration of the funds and projects by the Nigeria Sovereign Investment Authority (NSIA), financial review by an independent auditor, and monitoring by an independent civil society organization with expertise in engineering and other areas. The agreement also precludes the expenditure of funds to benefit alleged perpetrators of the corruption or to pay contingency fees for lawyers. The agreement reflects the sound principles for ensuring transparency and accountability adopted at the Global Forum on Asset Recovery (GFAR) in December 2016 in Washington, D.C., which the United States and the United Kingdom (UK) hosted with support from the Stolen Asset Recovery Initiative of the World Bank and United Nations Office on Drugs and Crime.

In addition to the more than \$308 million forfeited in Jersey, the Department of Justice is seeking to enforce its forfeiture judgment against approximately \$30 million located in the UK and over \$144 million in France. The United States is also continuing to seek forfeiture of over \$177 million in additional laundered funds held in trusts that name Abacha associate Bagudu, the current governor of Kebbi State, and his relatives as beneficiaries. The United States has asked the government of Nigeria to withdraw litigation it has instituted in the UK that hinders the U.S. effort to recover these additional funds for the people of Nigeria. The United States entered into the trilateral agreement to repatriate the Jersey assets because of its longstanding commitment to recover asset for the benefit of those harmed by grand corruption and because of the important safeguards embodied in the agreement.

This case was brought under the Kleptocracy Asset Recovery Initiative by a team of dedicated prosecutors in the Criminal Division’s Money Laundering and Asset Recovery Section working in partnership with the FBI. Through the Kleptocracy Asset Recovery Initiative, the Department of Justice and federal law enforcement agencies seek to safeguard the U.S. financial system from criminal money laundering and to recover the proceeds of foreign official corruption. Where appropriate and possible, the department endeavors to use recovered corruption proceeds to benefit the people harmed by acts of corruption and abuse of public trust.

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b. Iran

On February 21, 2020, the State Department issued a press statement commending the Financial Action Task Force (“FATF”) on its call for all jurisdictions to swiftly enact measures to counter the terrorist financing threats emanating from Iran. The press statement, available at <https://2017-2021.state.gov/united-states-commends-fatf-for-re-imposition-of-countermeasures-on-iran/>, includes the following:

Since Iran’s FATF action plan expired in 2018, Iran has failed to fulfill its commitments to adhere to the FATF’s anti-money laundering and combating the financing of terrorism standards, including ratifying the UN Palermo and Terrorist Financing Conventions. The regime needs to adhere to the basic standards that virtually every other country in the world agrees to. Iran must cease its reckless behavior and act like a normal nation if it wants its isolation to end.

c. Counterfeit Libyan currency printed by Russian state-owned company

On May 29, 2020, the State Department issued a press statement commending the Government of the Republic of Malta on its seizure of \$1.1 billion of counterfeit Libyan currency printed by Joint Stock Company Goznak—a Russian state-owned company. The press statement is available at <https://2017-2021.state.gov/seizure-by-malta-of-1-1-billion-of-counterfeit-libyan-currency/>, and further explains that the incident is part of an influx of counterfeit, Russian-printed Libyan currency in recent years that has exacerbated Libya’s economic problems and detracted from the authority of the Central Bank of Libya in Tripoli as Libya’s only legitimate central bank.

d. Repeal of FinCEN finding and special measure against Banco Delta Asia

On August 10, 2020, the Financial Crimes Enforcement Network (“FinCEN”) withdrew its finding that Banco Delta Asia (“BDA”) is a financial institution of primary money laundering concern, pursuant to Section 311 of the USA PATRIOT Act (Section 311). 85 Fed. Reg. 48,104 (Aug. 10, 2020). FinCEN also repealed the related rulemaking, published March 19, 2007, imposing the fifth special measure against BDA. 85 Fed. Reg.

48,105 (Aug. 10, 2020). Excerpts follow from the Federal Register notice repealing the measures.

In addition to petitioning FinCEN to withdraw the Final Rule, BDA filed suit on March 14, 2013, in the United States District Court for the District of Columbia challenging the Notice of Finding and the Final Rule. This litigation was stayed for many years so that ... dialogue ... could continue. Both FinCEN and BDA have since agreed that there are advantages to FinCEN's revisiting the Final Rule and to settling this litigation. This course of action allows BDA to submit any remaining additional comments and permits FinCEN to take stock of the present circumstances and, if appropriate, to avail itself of the informal rulemaking process (providing the public with an opportunity for notice and comment, in contrast to action on a petition) if it decides to take further action. As part of this settlement, FinCEN has agreed to reassess whether BDA is presently a financial institution of primary money laundering concern. BDA will be permitted to submit comments to FinCEN regarding the September 26, 2019, petition denial prior to FinCEN's engaging in any additional Section 311 rulemaking involving BDA.

In the event that FinCEN determines that the imposition of any special measures may be warranted, it will undertake a new rulemaking effort (including the publication of a new notice of proposed rulemaking). Any such proposed rule will allow for 30 days of comment, and as part of the rulemaking proceeding, FinCEN will make available for comment the unclassified, non-protected material relied upon by FinCEN in connection with any such rulemaking. If FinCEN determines that a final rule is appropriate, FinCEN will publish such a final rule 60 days following the close of the comment period. If the extent of submitted comments requires additional time, or if COVID-19-related issues hinder the agency's ability to satisfy the proposed timeframes, FinCEN will so announce in the Federal Register.

e. *Renewal of FinCEN measure regarding Bank of Dandong*

The U.S. Department of the Treasury, Financial Crimes Enforcement Network ("FinCEN") issued a final rule on November 8, 2017, imposing the fifth special measure to prohibit covered U.S. financial institutions from opening or maintaining a correspondent account for, or on behalf of, Bank of Dandong. The rule further requires covered U.S. financial institutions to apply due diligence to their correspondent accounts that is reasonably designed to guard against their use by Bank of Dandong. It also requires covered institutions to apply special due diligence to their foreign correspondent accounts that is reasonably designed to guard against their use to process transactions involving Bank of Dandong. See *Digest 2017* at 74-76. On August 10, 2020, FinCEN published a notice and request for comments on the renewal of the special measure concerning Bank of Dandong as a financial institution of primary money laundering concern. 85 Fed. Reg. 48,327 (Aug. 10, 2020).

5. Organized Crime

On June 1, 2020, the State Department announced a reward offer in the Transnational Organized Crime Rewards Program (“TOCRP”) for information on Venezuelan national, Joselit de la Trinidad Ramirez Camacho. The press statement announcing the reward offer is available at <https://2017-2021.state.gov/transnational-organized-crime-rewards-program-offer-for-information-to-bring-venezuelan-national-to-justice/>, and describes the transnational organized criminal activity of Ramirez Camacho as follows:

The Department is offering a reward of up to \$5 million for information leading to the arrest and/or conviction of Joselit de la Trinidad Ramirez Camacho for participating in transnational organized crime. While holding public positions in the Venezuelan regime, Ramirez Camacho violated the public trust by conspiring to launder illicit funds obtained in Venezuela. Ramirez Camacho, the current National Superintendent of Cryptoactive and Related Activities in the Maduro regime, was charged by indictment, along with former Venezuelan Vice-President Tareck El-Aissami, in the Southern District of New York with several transnational crimes, including money laundering.

On July 22, 2020, the State Department announced a TOCRP offer of up to \$1 million each for information leading to the arrests and/or convictions of Ukrainian nationals Artem Viacheslavovich Radchenko and Oleksandr Vitalyevich Ieremenko for participating in transnational organized crime, specifically cybercrime. The press statement announcing the offer, available at <https://2017-2021.state.gov/transnational-organized-crime-rewards-program-offer-for-information-to-bring-ukrainian-nationals-to-justice/>, provides background on the Ukrainian nationals:

In January 2019, a U.S. Secret Service led investigation resulted in a 16-count indictment against Radchenko and Ieremenko, charging them with securities fraud conspiracy, wire fraud conspiracy, computer fraud conspiracy, wire fraud, and computer fraud. The indictment alleges Radchenko and Ieremenko hacked the Security and Exchange Commission’s (SEC) Electronic Data Gathering, Analysis, and Retrieval (EDGAR) system and stole thousands of confidential files, which were then illegally sold for profit. The SEC has also filed a civil complaint charging Ieremenko and other individuals and entities.

On October 8, 2020, the U.S. Department of State announced a TOCRP reward of up to \$5 million for information leading to the arrest and/or conviction of Venezuelan national Samark Jose Lopez Bello for participating in transnational organized crime. The media note making the announcement is available at <https://2017-2021.state.gov/transnational-organized-crime-rewards-program-requests-information-to-bring-venezuelan-national-to-justice/>, and excerpted below.

This offer is made in connection with the announcements of reward offers up to \$10 million for former Venezuelan Vice President Tareck Zaidan El-Aissami Maddah on March 26, 2020 and up to \$5 million for National Superintendent of Cryptocurrencies in the Maduro regime Joselit de la Trinidad Ramirez Camacho on June 1, 2020. Lopez Bello worked with others in an effort to violate and evade OFAC sanctions imposed pursuant to the Foreign Narcotics Kingpin Designation Act and related regulations. He was charged by indictment, along with El-Aissami and Ramirez, in the Southern District of New York with several transnational crimes.

On October 13, 2020, the U.S. Department of State announced a reward of up to \$1 million under the TOCRP for information leading to the arrest and/or conviction of Jose Rodolfo Villarreal-Hernandez. The press statement announcing the reward offer is available at <https://2017-2021.state.gov/department-of-state-offers-reward-for-information-to-bring-mexican-transnational-criminal-to-justice/>, and includes the following further information:

Jose Rodolfo Villarreal-Hernandez has been a high-ranking member of the Beltran-Leyva Organization (BLO) Drug Cartel with specific responsibility for maintaining control of the San Pedro Garza Garcia/Monterrey Plazas. In this role, Villarreal-Hernandez oversees an organization responsible for the importation of cocaine and marijuana into the United States, and commits violent acts within Mexico and the United States to maintain his organization's power and status. Villarreal-Hernandez is currently charged in the United States for his role in directing a cartel-related murder-for-hire of a Mexican defense attorney in the Dallas suburb of Southlake, Texas, in 2013.

6. International Crime Issues Relating to Cyberspace

a. UK CLOUD Agreement

As discussed in *Digest 2019* at 95-96, the United States concluded its first agreement under the Clarifying Lawful Overseas Use of Data Act ("CLOUD Act") with the United Kingdom. The CLOUD Act requires that the Attorney General, with the concurrence of the Secretary of State, determine that the United Kingdom satisfies the CLOUD Act's requirements with respect to human rights and rule of law protections and that the Agreement itself meets the rigorous requirements of the CLOUD Act. On January 16, 2020, the Department of Justice transmitted to Congress notification that the Attorney General, with the concurrence of the Secretary of State, had certified that the requirements of the CLOUD Act are satisfied with respect to the agreement with the United Kingdom. The notification is available at <https://www.justice.gov/dag/page/file/1236281/download>.

b. *Criminal charges against Russian military intelligence officers for cyber crimes*

On October 19, 2020, the Department of Justice (“DOJ”) and Federal Bureau of Investigation (“FBI”) announced criminal charges against six officers of the Russian General Staff Main Intelligence Directorate’s (“GRU”) Military Unit 74455. See Department of State press statement, available at <https://2017-2021.state.gov/united-states-charges-russian-military-intelligence-officers-for-cyber-crimes/>. The press statement summarizes the charges as follows:

... this Russian military intelligence unit unleashed some of the most destructive malware the world has seen. The 2017 NotPetya cyber attack, which we publicly attributed previously to Russian military intelligence, was launched in Ukraine and caused billions of dollars in damage across Europe, Asia, and the Americas. The GRU’s action disrupted the delivery of critical infrastructure services to the public, including in the transportation and healthcare sectors.

Meanwhile, the GRU’s targeting of the 2018 PyeongChang Winter Olympics, after Russia was penalized for anti-doping violations, shows Russia’s willingness to use cyber capabilities to lash out at those who would hold it accountable for its malign behavior. Another GRU cyber attack described in the indictment resulted in the disruption of critical electrical distribution networks and financial services in Ukraine. Additional malicious cyber activities included in the indictment targeted organizations investigating the 2018 nerve agent poisoning of Sergei Skripal and others in the UK. Finally, the indictment describes GRU malicious cyber activity targeting government entities and private companies in Georgia and elections in France.

The statement further calls on Russia to put an end to its irresponsible behavior and on other states to promote greater stability in cyberspace by helping bring the Russian actors charged to justice.

c. *Rewards for Justice*

On August 5, 2020, the U.S. Department of State announced an RFJ reward offer of up to \$10 million for information leading to the identification or location of any person who works with or for a foreign government for the purpose of interfering with U.S. elections through certain illegal cyber activities. The media note announcing the reward offer, available at <https://2017-2021.state.gov/rewards-for-justice-reward-offer-for-information-on-foreign-interference-in-u-s-elections/>, further states:

The reward offer seeks information on the identification or location of any person who, while acting at the direction of or under the control of a foreign government, interferes with any U.S. federal, state, or local election by aiding or abetting a violation of section 1030 of title 18, which relates to computer fraud

and abuse. The Rewards for Justice program is administered by the Diplomatic Security Service.

Persons engaged in certain malicious cyber operations targeting election or campaign infrastructure may be subject to prosecution under the Computer Fraud and Abuse Act, 18 U.S.C. § 1030, which criminalizes unauthorized computer intrusions and other forms of fraud related to computers. Among other offenses, the statute prohibits unauthorized accessing of computers to obtain information and transmit it to unauthorized recipients.

C. INTERNATIONAL TRIBUNALS AND OTHER ACCOUNTABILITY MECHANISMS

1. General

Ambassador-at-Large for Global Criminal Justice Morse Tan contributed an opinion piece to *The Hill*, which was published on September 18, 2020, and is available at <https://thehill.com/opinion/international/517049-americans-can-be-proud-of-our-record-on-promoting-global-justice>. The piece, entitled “Americans can be proud of our record on promoting global justice,” is excerpted below.

* * * *

Supporters of the International Criminal Court like to portray it as the best and only venue through which the free world can seek justice for perpetrators of mass atrocities and war crimes. The United States’ incredible, superior record of pursuing and achieving justice is rarely mentioned. But it should be.

More than the ICC or any other international court, the United States continues to lead the world to pursue justice. Justice remains at the core of America’s ideals, as our Declaration of Independence and our Constitution affirm. Americans have worked for decades not only to hold those responsible for mass atrocities to account but also to prevent and mitigate such horrors.

It was the United States that led efforts to put war criminals on trial after WWII. In the Nuremberg and Tokyo Trials, the United States led in establishing the courts and prosecuting the cases against German and Japanese officials for war crimes and crimes against humanity.

The principles underpinning these trials spawned the creation of the U.S. Department of State’s Office of War Crimes Issues (now the Office of Global Criminal Justice) in 1997, which I am now honored to lead. This office is committed to pursuing justice regarding genocide, crimes against humanity, and war crimes in partnership with other countries, international organizations, and the NGO community.

The Trump Administration has been particularly assertive in continuing to promote accountability. In August 2017, the Trump Administration made the historic determination that ISIS was responsible for genocide against Yezidis, Christians, and Shia Muslims, and crimes against humanity and ethnic cleansing against these same groups and Sunni Muslims, Kurds, and other minorities. The following November, the Administration concluded that ethnic cleansing

took place against Rohingya in northern Rakhine State in Burma, increasing pressure on the Burmese government to promote accountability for mass atrocities.

Secretary Pompeo has continued this record. For example, he has consistently emphasized U.S. support for the Kosovo Specialist Chambers, which is doing essential work to deliver justice to victims of international crimes committed in Kosovo during and after the conflict 1990s.

Moreover, in September 2019, he declared the Assad regime in Syria was responsible for many atrocities, including some that rise to the level of war crimes and crimes against humanity. These include chemical weapons, extrajudicial killings, torture, forced disappearances, and other inhumane acts.

In February of this year, Secretary Pompeo publicly designated the current Commander of the Sri Lanka Army and Acting Chief of Defense Staff, Lieutenant General Shavendra Silva, for his involvement in gross violations of human rights, namely extrajudicial killings, during the final days of Sri Lanka's civil war in 2009.

These are no small gestures. Designations come with visa restrictions underscoring our concern over impunity for human rights violations and our support for accountability.

Through GCJ's War Crimes Rewards Program, the United States is also the only country that offers financial rewards for information that leads to the arrest of certain individuals wanted by international or hybrid tribunals for war crimes, genocide, or crimes against humanity. Over the life of the program, we have contributed to the arrest of more than 20 individuals accused of terrible crimes.

My office is currently focusing on six individuals wanted by the International Residual Mechanism for Criminal Tribunals for their roles in the 1994 genocide in Rwanda. Our work gets results: Félicien Kabuga, arrested near Paris in May after 26 years at large, was designated under the Rewards Program. Kabuga was the chief financier and a major instigator of the Rwandan genocide.

With bipartisan Congressional support, GCJ has allocated \$5 million for grants supporting efforts to collect and catalog evidence to be used in various courts, from international tribunals to national courts, including trials currently underway in Germany against alleged members of ISIS and the Assad regime.

The State Department's financial and diplomatic support for the Central African Republic Special Criminal Court and the Hybrid Court for South Sudan provide other concrete examples where the United States has provided substantial support for accountability and justice.

We Americans will continue to pursue justice and get results, just as we've done for decades.

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2. International Criminal Court

a. General

Ambassador Richard Mills, U.S. deputy permanent representative to the UN, delivered the U.S. explanation of position on November 2, 2020 on the adoption of a UN General Assembly resolution on the International Criminal Court ("ICC"). Ambassador Mills's remarks are excerpted below and available at <https://usun.usmission.gov/explanation->

[of-position-on-the-adoption-of-a-un-general-assembly-resolution-on-the-international-criminal-court/](#).

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The United States has historically been, and will continue to be, a strong supporter of meaningful accountability and justice for victims of atrocities through appropriate and legitimate mechanism. Perpetrators of atrocities must face justice, but we must also be careful to recognize the right tool for each situation.

The United States reiterates its continuing, longstanding, principled objection to any attempt to assert ICC jurisdiction over nationals of States that are not parties to the Rome Statute, including the United States and Israel, absent a UN Security Council referral or the consent of such a State.

The U.S. Government seeks to protect U.S. personnel from unjust and illegitimate prosecution by the ICC, which threatens U.S. sovereignty, purports, without our consent, to judge our highly robust and transparent national judicial system, and we believe poses a danger to the United States and our allies and partners. The ICC's past conduct, including its disregard for the sovereignty of non-Parties to the Rome Statute and its ingrained institutional weaknesses, have led the United States to conclude that major changes are needed, such as an amendment to the Rome Statute regarding jurisdiction.

I have heard the remarks of fellow delegates with interest, frustration, sadness. Let me tell everyone, the U.S. remains a leader in the fight to end impunity and supports justice and accountability for international crimes, including war crimes, crimes against humanity, genocide. The United States respects the decision of those nations that have chosen to join the ICC, and in turn, we expect and demand that our own national decision not to join and not to place our citizens under the court's jurisdiction also be respected.

Since the ICC has flagrantly disregarded our position, the United States disassociates itself from consensus on this resolution.

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b. *Afghanistan*

On March 5, 2020, the ICC Appeals Chamber authorized an investigation into activities of the Taliban and U.S. and Afghan personnel related to Afghanistan. The United States strongly objected to this step, including in a March 5, 2020 State Department press statement, available at <https://2017-2021.state.gov/icc-decision-on-afghanistan/>. As explained in the press statement, the ICC's decision followed shortly after the United States signed a peace deal on Afghanistan and the Afghan government also objected to the ICC investigation. Secretary Pompeo also delivered remarks to the press on March 5, 2020, available at <https://2017-2021.state.gov/secretary-pompeos-remarks-to-the-press/>, denouncing the ICC Appeals Chamber decision.

Secretary Pompeo held a press availability with Secretary of Defense Mark Esper, Attorney General William Barr, and National Security Advisor Robert O'Brien on June 11,

2020, to further respond to the ICC investigation related to Afghanistan. The remarks of these U.S. government officials are excerpted below and available at <https://2017-2021.state.gov/secretary-michael-r-pompeo-at-a-press-availability-with-secretary-of-defense-mark-esper-attorney-general-william-barr-and-national-security-advisor-robert-obrien/>.

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Many of you might recall back in November of 2017, the Court's Office of the Prosecutor announced its intention to investigate our brave warriors for alleged crimes arising from counterterrorism missions in Afghanistan.

It wasn't a prosecution of justice. It was a persecution of Americans.

The ICC cannot subject Americans to arrest, prosecution, and jail. The U.S. is not a party to the Rome Statute that created the ICC.

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We have responded ... by condemning the investigation, by suspending cooperation with the court, and denying visas to those most directly responsible for going after our personnel.

We welcomed growing criticism and calls to reform the court from countries like the UK, Germany, and Japan.

For a time, it looked like the ICC might do the right thing and kill the investigation. But last spring, the Pre-Trial Chamber unanimously rejected the prosecutor's request to open the investigation.

But unfortunately, then in the spring, in March, the Appeals Chamber overturned that sound judgment and gave a green light to the current investigation, effectively eliminating constraints on the prosecutor's office ability to launch new investigations of Americans in the future.

We cannot, we will not stand by as our people are threatened by a kangaroo court.

And indeed, I have a message to many close allies around the world: Your people could be next, especially those from NATO countries who fought terrorism in Afghanistan right alongside of us.

We're also gravely concerned about the threat the court poses to Israel.

The ICC is already threatening Israel with an investigation of so-called war crimes committed by its forces and personnel in the West Bank and in the Gaza Strip.

Given Israel's robust civilian and military legal system and strong track record of investigating and prosecuting wrongdoing by military personnel, it's clear the ICC is only putting Israel in its crosshairs for nakedly political purposes. It's a mockery of justice.

More than 300 members of Congress—Republicans and Democrats alike—recently sent me letters asking that the United States support Israel in the face of the ICC's lawless, politicized attacks.

That's what the U.S. is dead set on doing, and with good reason. They're a trusted and wonderful partner and a buttress of American security. If a rogue court can intimidate our friend or any other ally into abrogating its right to self-defense, that puts Americans at risk as well.

Absent corrective action, we can expect the ICC will continue its present, reckless course.

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The Trump Administration is taking the following actions:

First, we're authorizing the imposition of economic sanctions against ICC officials directly engaged in the ICC efforts to investigate U.S. personnel or allied personnel against that allied state's consent, and against others who materially support such officials' activities. Designations will be made on a case-by-case basis against specific individuals or entities.

And second, the United States is expanding visa restrictions for officials directly engaged in those same investigations. We're extending and expanding these restrictions to include their family members.

It gives us no joy to punish them. But we cannot allow ICC officials and their families to come to the United States to shop and travel and otherwise enjoy American freedoms as these same officials seek to prosecute the defender of those very freedoms.

I'll close by saying this: Never forget the American commitment to real justice and accountability.

From the Nuremberg and Tokyo trials after World War II to the more recent Yugoslavia and Rwanda tribunals, the United States has always sought to uphold good and punish evil under international law. We will continue to do so.

When our own people do wrong, we lawfully punish those individuals—as rare as they are—who tarnish the reputation of our great U.S. military and our intelligence services.

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SECRETARY ESPER: ...

Good morning, everyone, and thank you for being here for this important announcement. Today the President took necessary and decisive action with an executive order that will protect American citizens and our nation's sovereignty and defend our national security interests and those of our allies.

The International Criminal Court's efforts to investigate and prosecute Americans are inconsistent with fundamental principles of international law and the practice of international courts. As the executive order notes, the United States is not a party to the Rome Statute that created the ICC, nor have we ever accepted its jurisdiction over our personnel.

That is why our nation and this administration will not allow American citizens who have served our country to be subjected to illegitimate investigations. Instead, we expect information about alleged misconduct by our people to be turned over to U.S. authorities so that we can take the appropriate action, as we have consistently done so in the past.

The United States maintains the sovereign right and obligation to properly investigate and address any of our personnel's alleged violations of the laws of war. We have a proven record of doing just that through an American justice system that is eminently capable of handling each case. This includes investigating and prosecuting the alleged abuse of detainees or any other misconduct. Ultimately, our justice system ensures that our people are held to account under the United States Constitution, not the International Criminal Court or other overreaching intergovernmental bodies.

Moreover, there is no other force more disciplined and committed to compliance with the laws of war than the United States military, which has made lasting contributions to the cause of

justice and accountability in armed conflict. For example, our military led prosecutions in historic international military tribunals, including at Nuremberg, as Secretary Pompeo mentioned, in addition to providing critical support to the International Criminal Tribunal for the Former Yugoslavia.

We have consistently provided training on the rule of law and given related assistance to scores of partners and allies around the globe. Additionally, since our founding, the United States military has fought to liberate the oppressed and defeat the enemies of justice, from Tripoli to Normandy and from Korea to Kandahar.

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AMBASSADOR O'BRIEN: ...

As my colleagues made clear and as General Barr will make clear, we are here today to defend American sovereignty and the American people who serve our great nation. The ICC's effort to target American servicemen and women and other public servants are unfounded, illegitimate, and make a mockery of justice. ...

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ATTORNEY GENERAL BARR: Thank you. I'm pleased to join my colleagues today in support of the President's action against the International Criminal Court. The ICC's recent decision to authorize an investigation into the conduct of U.S. personnel who were fighting to defeat terrorists in Afghanistan and bring peace and prosperity to the Afghan people validates our longstanding concerns about the ICC.

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The United States, as has been mentioned, has never consented to ICC jurisdiction. Worse yet, we are concerned that foreign powers, like Russia, are also manipulating the ICC in pursuit of their own agenda. The measures announced today are an important first step in holding the ICC accountable for exceeding its mandate and violating the sovereignty of the United States.

The U.S. Government has reason to doubt the honesty of the ICC. The Department of Justice has received substantial, credible information that raises serious concerns about a long history of financial corruption and malfeasance at the highest levels of the office of the prosecutor. This information calls into question the integrity of the ICC's investigations. This includes information going back many years about multiple matters, including recent matters, and that has, in our view, may well have a bearing on the current investigation announced by the ICC.

The Department of Justice, together with partners across the United States Government, is investigating, and we are committed to uncovering and if possible holding people accountable for their wrongdoing – any wrongdoing – that we may find.

The executive actions announced here will ensure that those who assist the ICC's politically motivated investigation of American service members and intelligence officers without the United States' consent will suffer serious consequences. The Department of Justice

fully supports these measures and will vigorously enforce the sanctions imposed today under the executive order to the fullest extent of the law.

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As discussed in the joint press availability *supra*, the President issued E.O. 13928 of June 11, 2020, which authorizes sanctions in response to the ICC's actions. 85 Fed. Reg. 36,139 (June 15, 2020). The order authorizes sanctions on:

(i) any foreign person determined by the Secretary of State, in consultation with the Secretary of the Treasury and the Attorney General:

(A) to have directly engaged in any effort by the ICC to investigate, arrest, detain, or prosecute any United States personnel without the consent of the United States;

(B) to have directly engaged in any effort by the ICC to investigate, arrest, detain, or prosecute any personnel of a country that is an ally of the United States without the consent of that country's government;

(C) to have materially assisted, sponsored, or provided financial, material, or technological support for, or goods or services to or in support of, any activity described in subsection (a)(i)(A) or (a)(i)(B) of this section or any person whose property and interests in property are blocked pursuant to this order; or

(D) to be owned or controlled by, or to have acted or purported to act for or on behalf of, directly or indirectly, any person whose property and interests in property are blocked pursuant to this order.

In September, sanctions were imposed under E.O. 13928 on ICC Prosecutor Fatou Bensouda for having directly engaged in an effort to investigate U.S. personnel, and the ICC's Head of the Jurisdiction, Complementarity and Cooperation Division Phakiso Mochochoko for having materially assisted Prosecutor Bensouda. See State Department press statement, available at <https://2017-2021.state.gov/actions-to-protect-u-s-personnel-from-illegitimate-investigation-by-the-international-criminal-court/>. See also Secretary Pompeo's remarks on the sanctions, available at <https://2017-2021.state.gov/secretary-michael-r-pompeo-at-a-press-availability-12/>.*

c. *Libya*

On May 5, 2020, Minister Counselor Mark Simonoff of the U.S. Mission to the UN, delivered remarks at a UN Security Council briefing on the situation in Libya. His statement follows and is available at <https://usun.usmission.gov/remarks-at-a-un->

* Editor's note: On April 2, 2021, the Secretary of State announced termination of sanctions previously imposed on certain ICC officials. See April 2, 2021 press statement, available at <https://www.state.gov/ending-sanctions-and-visa-restrictions-against-personnel-of-the-international-criminal-court/>.

[security-council-briefing-on-the-situation-in-libya-via-vtc/](#).

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It is shameful that several of the most notorious perpetrators of crimes against the Libyan people this past decade continue to enjoy impunity. Saif al-Islam Qadhafi, Mahmoud al-Werfalli, Al-Tuhamy Mohamed Khaled, and Abdullah al-Senussi should face justice for their alleged crimes. We call on those who harbor Saif al-Islam Qadhafi and Mahmoud al-Werfalli to deliver them to Libyan authorities immediately. We also call on those who shelter Al-Tuhamy Mohamed Khaled, the former head of Libya's notorious Internal Security Agency, to end their protection of this perpetrator. We are monitoring the status of the Supreme Court of Libya's case against Abdullah Al-Senussi.

Accountability for the architects of Libya's darkest days would bring justice to the victims of these atrocities and their families and help ensure they are not forgotten. It would also deliver a powerful deterrent message to potential future abusers – and to those involved in the current conflict who may be guilty of atrocities. The U.S. government continues to receive other reports of human rights abuses in Libya occurring today. Accounts include arbitrary killings, forced disappearances, unlawful detention, torture, human trafficking, and sexual violence. The conflict in Libya is destabilizing the region, and has displaced many, including migrants and refugees.

Libyan militia groups and security forces on all sides – as well as their international backers – stand accused of perpetrating these human rights abuses. We are deeply alarmed and continue to call for de-escalation and a ceasefire to end these abuses and permit Libyans to address the threat posed by the COVID-19 pandemic. Libya's political and security instability has created an environment conducive to the commission of human rights abuses. In an effort to address this environment, the United States continues to oppose foreign military intervention in Libya and support a rapid return to a political process, and we thank Acting Special Representative Stephanie Williams and her team for their ongoing efforts to secure a negotiated political solution to the crisis.

The United States has historically been, and will continue to be, a strong supporter of meaningful accountability and justice for victims of atrocities through appropriate mechanisms. Perpetrators of atrocity crimes must face justice, but we must also be careful to use the right tools for each situation.

I must reiterate our longstanding and principled objection to any assertion of ICC jurisdiction over nationals of States that are not party to the Rome Statute, absent a UN Security Council referral or the consent of such States. Our concerns regarding the ICC and the situation in Afghanistan are well-known. Our position on the ICC in no way diminishes the United States' commitment to supporting accountability for atrocity crimes, violations of international humanitarian law, and gross violations of human rights.

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Ambassador Mills addressed the UN Security Council at a briefing on the situation in Libya on November 10, 2020. His remarks are excerpted below and available at <https://usun.usmission.gov/remarks-at-a-un-security-council-briefing-on-the-situation-in-libya-via-vtc-4/>.

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The United States is concerned about crimes and human rights abuses in Libya, including violence against civilians and atrocities in Tarhouna, that we have just heard described in the briefing. But there are long outstanding crimes that also must be accounted for expeditiously.

Accountability for the architects of Libya's darkest days would bring justice to the victims of these atrocities and their families and help ensure they are not forgotten. It would also strengthen the durability of the inclusive, negotiated political agreement we hope is in the future, because it would deliver a powerful deterrent message to potential abusers, and to those involved in the current conflict who may have committed abuses and atrocities—that there is no place for the perpetration of atrocities and other human rights abuses, in Libya's future.

For that reason, the United States supported the recent announcement of economic sanctions from the European Union against Mahmoud al-Werfalli for the human rights abuses he has committed against Libyans.

The U.S. Government continues to receive reports of atrocities and other human rights abuses in Libya that are happening now. Accounts include arbitrary killings, forced disappearances, unlawful detention, torture, and sexual and gender-based violence. The conflict in Libya is destabilizing to the region and has displaced many. A culture of impunity has prolonged the conflict by enabling human rights abuses against Libyans.

The United States is further concerned by reports of violence against peaceful protestors this past August in Zawiya, Tripoli, and Hun. We support UNSMIL's call for an investigation into the reports of the use of excessive force against protestors. Libyans must be allowed to exercise their right to peaceful assembly.

We also express concern about the mines and booby traps in the outskirts of Tripoli and the reports of a massacre of migrants in Mizda.

The United States shares the horror of Libyans' and the international community at the discovery of mass graves and of bodies showing signs of torture near Tarhouna. We support immediate efforts by the Libyan government and international bodies to investigate these abuses and bring the perpetrators to justice.

Specifically, Mohammed al-Kani and the Kaniyat militia is one of the most egregious abusers of human rights in Libya and has carried out enforced disappearances, torture, and killings in Tarhouna. The United States will nominate al-Kani and the Kaniyat militia to the 1970 Libya Sanctions Committee for designation shortly. These designations would be a strong message from the Security Council for Libyan authorities and the international community to take meaningful enforcement action against human rights violators, and to end the culture of impunity in Libya that is fueling the conflict.

Libyan armed groups and security forces on all sides—as well as their international backers—stand accused of perpetrating and enabling human rights abuses. These actions are unacceptable. The United States welcomes the creation of an international fact-finding mission

to document atrocities and other human rights abuses in Libya, and we strongly urge that the Fact-Finding Mission be granted full access throughout Libya.

We join our colleagues on the Council in welcoming the October 23 announcement of the nationwide Libyan ceasefire, facilitated by the UN Acting Special Representative Stephanie Williams, and we will press to ensure that it leads to an end to these abuses, facilitates efforts to bring the perpetrators to justice, and permits the Libyan people to find a lasting, political solution to this conflict.

The United States continues to oppose all foreign military intervention in Libya and supports the UN's efforts to convene the Libyan Political Dialogue Forum this week in Tunis for in-person discussions aimed at determining a new executive authority to prepare for national elections. We thank UN Acting Special Representative Stephanie Williams and her team for their ongoing efforts in this regard.

The United States has been, historically, and will continue to be, a strong supporter of meaningful accountability and justice for victims of atrocities through appropriate mechanisms. Perpetrators of atrocity crimes must face justice, but we must also be careful to use the right tools for each situation.

I have heard my colleagues mention the United States' view and position on the ICC, so let me close by reiterating our longstanding and principled objection to any assertion of ICC jurisdiction over nationals of States that are not party to the Rome Statute, absent a UN Security Council referral or the consent of such States. ... Our concerns regarding the ICC and the situation in Afghanistan are well-known.

Our position on the ICC in no way diminishes the United States' commitment to supporting accountability for these crimes, these atrocities, these violations of international humanitarian law, and we will continue to be an advocate for justice.

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d. *Israel*

The State Department issued a press statement on May 15, 2020 condemning the ICC prosecutor's assertion of jurisdiction over Israel, which is not a party to the Rome Statute. The statement, available at <https://2017-2021.state.gov/the-international-criminal-courts-illegitimate-prosecutions/>, elaborates:

On April 30, the ICC Prosecutor re-affirmed her attempt to exercise jurisdiction over the West Bank, East Jerusalem, and Gaza through a new filing to the Court. As we made clear when the Palestinians purported to join the Rome Statute, we do not believe the Palestinians qualify as a sovereign state, and they therefore are not qualified to obtain full membership, or participate as a state in international organizations, entities, or conferences, including the ICC.

Seven states that are party to the Rome Statute—Australia, Austria, Brazil, Czech Republic, Germany, Hungary, and Uganda—have made formal submissions to the Court that assert that the ICC does not have jurisdiction to proceed with this investigation. We concur. A court that attempts to exercise its power outside its jurisdiction is a political tool that makes a mockery of the law

and due process.

e. Sudan

On June 10, 2020, Minister Counselor Mark Simonoff delivered remarks for the U.S. Mission to the UN at a UN Security Council briefing by the ICC prosecutor on Sudan. Mr. Simonoff's remarks are excerpted below and available at <https://usun.usmission.gov/remarks-at-a-un-security-council-briefing-by-the-international-criminal-court-prosecutor-on-sudan-via-vtc/>.

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Despite the impacts of the COVID-19 pandemic, which are being felt everywhere, we are heartened to see continued positive developments in Sudan over the past few months. The civilian-led transitional government (CLTG), in their discussions with armed opposition, are demonstrating that they are committed to justice for victims of atrocities in the Darfur conflict.

We have been encouraged by concrete steps parties in Sudan have taken to build a more stable, secure, and human rights-respecting future. We commend the civilian-led transitional government for agreeing to justice and accountability measures in the Transitional Justice and Reconciliation protocol negotiated in February 2020 with the Darfur armed opposition, including through the formation of a special court in Darfur to try atrocity crimes. Actions like this, taken to address the decades of violence committed with impunity against Darfuri victims, will increase the prospects for a just and enduring peace across Sudan.

We are encouraged by Prime Minister Hamdok's Eid speech on May 25, during which he stated that the perpetrators of the June 3, 2019, massacre, when 127 protestors were killed during a sit-in, and other protesters were beaten and sexually assaulted, will be held accountable. Genuine accountability would be a positive step for Sudan and a clear break from the past, and a clear demonstration of its commitment to freedom of peaceful assembly. We urge the Prime Minister and the civilian-led transitional government to honor this commitment. We also call for the National Independent Committee investigating the massacre to conduct a thorough, credible investigation that addresses all the crimes committed on that day and identifies those responsible for the grave crimes that were committed so that they can be brought to justice.

The United States will continue our efforts to deepen diplomatic relations with the new Sudanese government and support ongoing peace negotiations with armed opposition groups. We will continue to encourage them to use a survivor-centered approach during these negotiations, and ensure that the voices of women, youth, and other groups who have borne the brunt of the Bashir regime's violence are heard, in order to ensure that crimes against the Sudanese people committed under the Bashir regime are not forgotten or ignored.

The United States supports Sudan in its path to upholding democratic values, strengthening an independent justice system, and pursuing legal reform to ensure equality for all, regardless of gender, religion, or ethnicity. We will continue to support Sudanese efforts to ensure justice and encourage open, inclusive national dialogues about how transitional justice mechanisms can facilitate truth, justice, reconciliation and healing.

There are few in Sudan more deserving of facing justice than Omar Al-Bashir. While we are encouraged by his recent conviction in April, we note that the charges narrowly related to financial corruption. We believe more needs to be done.

As we have said for over a decade, there will be no lasting peace in Sudan until there is genuine accountability for all of the crimes that have been committed against the Sudanese people. To date, no one has been held accountable for the estimated 300,000 people killed in Darfur, the rampant sexual violence, or the looting and burning of homes. Those most responsible for the crimes committed in the conflicts in Darfur and the Two Areas must be held accountable for their actions. We received reports that Ali Kushayb is in custody. Ali Kushayb must be held accountable for his alleged abuses. The people of Darfur, victims, survivors, and their families deserve justice.

We must also ensure that those who oppose Sudan's efforts to address its painful past have no power to hijack Sudan's future. We were deeply concerned to learn of the attempted assassination attempt against Prime Minister Hamdok—such attempts undermine the Sudanese people's hard-fought liberation efforts.

The United States has historically been, and will continue to be, a strong supporter of meaningful accountability and justice for victims of atrocities through appropriate mechanisms. Perpetrators of atrocity crimes must face justice, but we must also be careful to recognize the right tool for each situation.

I must reiterate our longstanding and principled objection to any assertion of ICC jurisdiction over nationals of States that are not party to the Rome Statute, absent a UN Security Council referral or the consent of such States. Our concerns regarding the ICC and the situation in Afghanistan are well-known.

Our position on the ICC in no way diminishes the United States' commitment to supporting accountability for atrocity crimes, violations of international humanitarian law, and gross violations of human rights.

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On December 10, 2020, Deputy Legal Adviser Julian Simcock delivered remarks for the U.S. Mission to the UN at a UN Security Council briefing by the prosecutor of the International Criminal Court on Sudan (via VTC). Mr. Simcock's remarks are excerpted below and available at <https://usun.usmission.gov/remarks-at-a-un-security-council-briefing-by-the-prosecutor-of-the-international-criminal-court-on-sudan-via-vtc/>.

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We have been encouraged by the concrete steps parties in Sudan have taken to build a more stable, secure, and human rights-respecting future. We are particularly pleased that Sudan's civilian-led transitional government, the Sudan Revolutionary Front, and other groups signed a landmark peace agreement aimed at ending almost two decades of conflict. This important step forward alongside the transitional government's implementation of justice and accountability measures, including the formation of a special court in Darfur to try atrocity crimes, can help

address decades of violence committed with impunity against Darfuri victims, and will increase the prospects for a just and enduring peace across Sudan.

The sound of celebration in the streets as the government welcomed rebels back to Khartoum is a sign the Sudanese people are tired of war and conflict and are ready to move forward. Genuine accountability would be a positive step for Sudan, a clear break from the past, and a clear demonstration of its commitment to freedom and justice.

The United States will continue its efforts to deepen diplomatic relations with the new Sudanese government and support its ongoing peace negotiations with several other armed opposition groups. We will continue to encourage them to use a survivor-centered approach during these negotiations, and ensure that the voices of women, youth, and other groups, who have borne the brunt of the Bashir regime's violence, are heard. We must ensure the Bashir-era crimes are not forgotten or ignored. In particular, we applaud the Sudanese women who were on the frontlines to promote human rights and good governance, often at great risk to their personal safety.

The United States supports Sudan's efforts to uphold democratic values, strengthen an independent justice system, and pursue legal reform to ensure equality for all, regardless of gender, religion, or ethnicity. We will continue to encourage open, inclusive national dialogues about how transitional justice mechanisms can facilitate truth, justice, reconciliation, and healing during Sudan's fragile and ongoing political transition.

There are few in Sudan who deserve to face justice more than Omar al-Bashir. Although we are encouraged by his recent conviction for financial corruption, we believe more needs to be done to pursue justice and accountability, specifically with regard to his alleged responsibility for acts of genocide committed in Darfur and other atrocities committed throughout the country.

As we have said for more than a decade, there will be no lasting peace in Sudan until there is genuine accountability for all the crimes that have been committed during the long years of conflict. The Darfur conflict – which killed an estimated 300,000 people, led to the displacement of millions more and entailed rampant sexual violence and the looting and burning of homes – demands justice. There are still almost two million internally displaced persons in Darfur. Those responsible for the crimes committed in the conflicts in Darfur and the Two Areas must be held accountable for their misconduct. We must also ensure that those who oppose Sudan's efforts to address its painful past have no power to hijack Sudan's future.

The United States has historically been, and will continue to be, a strong supporter of meaningful accountability and justice for victims of atrocities through appropriate mechanisms. Perpetrators of atrocities must face justice, but we must also be careful to recognize the right tool for each situation.

I must reiterate our longstanding and principled objection to any assertion of ICC jurisdiction over nationals of States that are not party to the Rome Statute, absent a UN Security Council referral or the consent of such States. Our concerns regarding the ICC and the situation in Afghanistan are well-known.

Our position on the ICC in no way diminishes the United States' commitment to supporting accountability for atrocities, violations of international humanitarian law, and gross violations of human rights.

2. International Criminal Tribunals for the Former Yugoslavia and Rwanda and the International Residual Mechanism for Criminal Tribunals

On May 18, 2020, the State Department issued a press statement welcoming the arrest of Félicien Kabuga for his role in the 1994 genocide in Rwanda. The press statement, available at <https://2017-2021.state.gov/the-united-states-applauds-the-arrest-of-felicien-kabuga/>, applauds the Government of France and the International Residual Mechanism for Criminal Tribunals and law enforcement officials worldwide who contributed to the arrest. The statement also includes the following:

Twenty-six years after the genocide in Rwanda, the United States remains committed to seeking justice for the many men, women, and children who were killed. Through the War Crimes Reward Program, we offer up to \$5 million for information that leads to the arrest of the remaining seven Rwandans wanted for genocide by the International Residual Mechanism for Criminal Tribunals.

On June 8, 2020, Ambassador Cherith Norman Chalet, acting deputy permanent representative for the U.S. Mission to the United Nations, delivered remarks at a UN Security Council Briefing on the International Residual Mechanism for Criminal Tribunals. Ambassador Chalet's remarks are excerpted below and available at <https://usun.usmission.gov/remarks-at-a-un-security-council-briefing-on-the-international-residual-mechanism-for-criminal-tribunals-via-vtc/>.

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The United States wishes to congratulate the Residual Mechanism, the Government of France, and all the other national and international bodies that collaborated to bring about the recent arrest of Rwandan businessman, Félicien Kabuga, who was indicted for genocide, crimes against humanity, and other serious violations of international humanitarian law. Mr. Kabuga is alleged to be the main financier and backer of the political and militia groups that committed the Rwandan genocide, as well as the founder of the notorious Radio-Television Milles Collines.

Mr. Kabuga's arrest after 26 years at large demonstrates the continued relevance of the Residual Mechanism and its work. We support its efforts to ensure justice is meted out for Mr. Kabuga's alleged role in the horrific acts perpetrated in Rwanda.

We further congratulate the Residual Mechanism and its collaborators on confirming the death of the long-time fugitive Augustin Bizimana. We will continue to support the Residual Mechanism's efforts to apprehend the remaining six Rwandans still wanted for their roles in the 1994 genocide. The United States continues to offer rewards of up to \$5 million for information that leads to the arrest, transfer, or conviction of any of the remaining fugitives. We strongly urge all countries to cooperate fully with the Residual Mechanism and bring these people, wanted for some of the worst crimes in history, to justice.

As mentioned, the global pandemic has impacted every aspect of the UN's work, and the Residual Mechanism is no different. We acknowledge that in-court proceedings have had to be

delayed, and we commend your efforts to adhere to public health guidelines while doing your work. We hope the Residual Mechanism is able to proceed expeditiously with the Mladić appeal, as the conclusion of that case will be an important moment for the victims.

General Ratko Mladić served as the commander of the Bosnian Serb Army during the genocide of Bosnian Muslim men and boys in Srebrenica, and his forces raped women and girls, shelled and sniped the civilian population of Sarajevo, and brutalized Muslim and Croat prisoners—all with the horrifying objective of permanently removing Bosnian Muslims and Bosnian Croats from Bosnian Serb-claimed territory. We mention these again to reiterate the importance of the case against Mladić and the important work and we welcome that work that the Residual Mechanism is undergoing and the efforts to continue the work of the International Criminal Tribunal for the former Yugoslavia in adjudicating General Mladić's responsibility for grave crimes committed during the war.

Similarly, we acknowledge progress on the retrial of Jovica Stanišić and Franko Simatović on charges of crimes against humanity and war crimes for their alleged roles in the unlawful, forcible removal of non-Serbs from Croatia and Bosnia and Herzegovina.

As regards the contempt proceedings in the Turinabo et al, and Jojic and Radeta cases, we note that attempts to interfere with witnesses or otherwise undermine court proceedings are a grave threat to the rule of law and must be dealt with seriously.

We also commend the Residual Mechanism's efforts to support national judicial efforts, from the Balkans to Rwanda. These proceedings remain vital to ensure that the pursuit of justice will not end even as prosecutions at the Residual Mechanism conclude. We note Rwanda's progress in continuing to try cases related to the genocide and urge Balkan states to improve their cooperation across national systems.

We will also strongly support the renewal of the Residual Mechanism's mandate, which we have for consideration at this time. The work of the Residual Mechanism remains vital, relevant, and crucial for the administration of justice, as we have laid out this morning. We urge the Council to support the extension of this mandate, as its work must continue.

The Prosecutor continues to provide deeply troubling reports about the ongoing challenge of genocide denial and non-acceptance of historical truths in both Rwanda and the Balkans. We cannot bring back those whose lives were lost. But we would fail to ensure justice for them and their loved ones if we do not act forcefully when leaders seek to turn certain populations into scapegoats for society's ills or deny historical facts.

We must re-commit to protecting the welfare of civilians during armed conflict and holding those who violate international humanitarian law accountable. The Residual Mechanism has been an important part of this work and we will continue to support its efforts on behalf of victims.

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On October 21, 2020, Ambassador Mills delivered remarks at a UN General Assembly debate on the International Residual Mechanism for Criminal Tribunals. His remarks are excerpted below and available at <https://usun.usmission.gov/remarks-at-a-un-general-assembly-debate-on-the-international-residual-mechanism-for-criminal-tribunals-via-vtc/>.

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...We are very grateful in the United States for [the Mechanism president's] hard work and the unwavering commitment of all the judges, attorneys, and staff in Arusha and The Hague, as well as in the field offices in Kigali and Sarajevo, to the pursuit of justice for the victims in Rwanda and the former Yugoslavia.

I appreciated the President's mention of the 25th anniversary of the signing of the Dayton Accords. This is an opportune time to reflect on the Accords. We must never forget the commitments made in Dayton regarding justice, and we must ensure that the Mechanism is able to complete its vital work delivering justice and accountability to survivors.

The United States was very pleased to hear that despite the ongoing impacts of the COVID pandemic that affect all of us every day, the Mechanism has been able to carry out its important work and deliver results. We join others in commending the judges for their ability to adapt to these trying circumstances and to avoid serious delays in the judicial proceedings.

The United States also wants to congratulate the Mechanism and France on the recent arrest of the Rwandan businessman, Félicien Kabuga, who was indicted for genocide, crimes against humanity, and violations of international humanitarian law.

Kabuga's arrest, after being at large for 26 years, demonstrates the continued relevance of the Mechanism and the importance of its work. We support the Mechanism's efforts to ensure justice for Kabuga's alleged role in the horrific acts perpetrated in Rwanda.

The United States further thanks the Mechanism for confirming the death of long-time fugitive Augustin Bizimana. We will continue to support the Mechanism's efforts to apprehend the remaining six Rwandans still wanted for their roles in the 1994 genocide. The United States continues to offer rewards of up to five million U.S. dollars for information that will lead to the arrest, transfer, or the conviction of any of these remaining fugitives. We strongly urge all countries to cooperate fully with the Mechanism and bring these people, wanted for horrific atrocities, to justice.

We were pleased as well that the Mechanism was able to hold a hearing in the Mladić appeal, and we hope the Mechanism will be able to proceed quickly, as the conclusion of that case will be an important moment for the victims. We welcome the Mechanism's work to adjudicate General Mladić's responsibility for grave crimes committed during the war.

Similarly, the United States acknowledges progress on the retrial of Jovica Stanišić and Franko Simatović on charges of crimes against humanity and war crimes for their alleged roles in the unlawful, forcible removal of non-Serbs from Croatia and Bosnia and Herzegovina.

With regard to the contempt proceedings in the Turinabo et al, and Jojic and Radeta cases, let us reaffirm that attempts to interfere with witnesses or otherwise undermine judicial proceedings are a grave threat to the rule of law and they must be dealt with seriously. We understand that the ongoing pandemic complicates this matter, but we do hope that these ongoing cases are completed early in 2021.

Mr. President, we were happy to participate in the negotiation of Security Council Resolution 2529, concluding the Council's review of the Tribunal's work for the past two years, and we want to thank Vietnam for its skillful handling of this review. We also want to welcome the appointment of the new Mechanism Registrar, Mr. Tambadou. We are very confident that he will contribute significantly to the effectiveness and the efficiency of the Mechanism's work.

While the Mechanism continues to contribute to the documentation and redress of the crimes that are within its purview, it is deeply troubling to hear the Prosecutor's continuing reports of ongoing challenge of genocide denial and the non-acceptance of historical truths in both Rwanda and Bosnia.

Let me end by saying when we consider the hope and the promise that was laid forth with the Dayton Accords 25 years ago, one thing is clear: While we cannot bring back those whose lives were lost, we can pursue justice for them and their loved ones and respond forcefully when leaders seek to turn certain populations into scapegoats or to deny historical facts. The Mechanism has and continues to be an important part of this work and the United States continues to support its efforts on behalf of victims.

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On December 14, 2020, Mr. Simonoff delivered remarks at a UN Security Council briefing on the International Residual Mechanism for Criminal Tribunals. His remarks are available at <https://usun.usmission.gov/remarks-at-a-un-security-council-briefing-on-the-international-residual-mechanism-for-criminal-tribunals-via-vtc-2/> and excerpted below.

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Thank you, Mr. President, and thank you for your briefings, President Agius and Prosecutor Brammertz. We are grateful for your hard work and the unwavering commitment of the judges, attorneys, and staff in Arusha and The Hague, as well as in field offices in Kigali and Sarajevo, in your pursuit of justice for the victims in Rwanda and the former Yugoslavia.

We are pleased that you and President Agius have been reappointed to your positions, and that Abubacarr Tambadou has been appointed as the new Registrar. Mr. Tambadou had an impressive record as Attorney General of the Gambia, and we understand that he is already making a valuable contribution to the Mechanism's work. We also welcome Pierre St. Hilaire, the new head of fugitive tracking, whose work we have also been impressed with.

We are pleased to hear that the Mechanism was able to make progress on its judicial caseload, despite the ongoing COVID-19 pandemic that continues to affect us every day. The progress made since the last briefing is commendable, given the circumstances.

We are impressed to hear about the steps taken to allow the Mechanism's work to continue in both its branches, and are glad the Mechanism is able to hold hearings in a way that does not jeopardize the health and safety of those involved. We thank you for these efforts and your commitment to justice in these extraordinary times.

After the historic arrest of Rwandan businessman, Félicien Kabuga, who was indicted for genocide, crimes against humanity, and other serious violations of international humanitarian law, it is good to hear that he has successfully passed into the Mechanism's custody and that pre-trial proceedings have begun.

These developments, taking place after Kabuga spent 26 years at large, demonstrates the continued relevance and impact of the Mechanism and its work. We support its efforts to ensure that justice is meted out for Kabuga's alleged role in the horrific acts perpetrated in Rwanda.

We will continue to support the Mechanism's efforts to apprehend the remaining six Rwandans still wanted for their roles in the 1994 genocide. The United States continues to offer rewards of up to \$5 million for information that leads to the arrest, transfer, or conviction of any of the remaining fugitives. We strongly urge all countries to cooperate fully with the Mechanism and bring these people, wanted for some of the worst crimes in history, to justice.

We further congratulate the court for successfully holding the appeal hearing for Ratko Mladić. As we all know, General Mladić served as the commander of the Bosnian Serb Army during the genocide of Bosnian Muslim men and boys in Srebrenica, and his forces raped women and girls, shelled and sniped the civilian population of Sarajevo, and brutalized Muslim and Croat prisoners – all with the horrifying objective of permanently removing Bosnian Muslims and Bosnian Croats from Bosnian Serb-claimed territory. We welcome the Mechanism's work to adjudicate General Mladić's responsibility for grave crimes committed during the war and await the results of the Mechanism's judgement as soon as possible.

Similarly, we commend the Mechanism's progress on the retrial of Jovica Stanišić and Franko Simatović on charges of crimes against humanity and war crimes for their alleged roles in the unlawful, forcible removal of non-Serbs from Croatia and Bosnia and Herzegovina.

With regard to the contempt proceedings in the Turinabo and Jojic and Radeta cases, we are relieved that trial proceedings were finally able to commence, despite attempts to interfere with witnesses and efforts to undermine court proceedings.

We also commend the Mechanism's efforts to support national judicial efforts, from the Balkans to Rwanda. These proceedings remain vital to ensure that the pursuit of justice will not end even as prosecutions at the Mechanism conclude. We note Rwanda's progress in continuing to try cases related to the genocide and urge Balkan states to improve their cooperation across national systems.

We remain extremely concerned about the Mechanism's reporting about genocide denial, the non-acceptance of historical facts, and the glorification of war criminals. We must do more to fight such rhetoric, particularly in the Balkans, and we condemn efforts by political leaders to distort historical facts and to use their platforms to increase divisions and exacerbate tensions.

We welcome the Mechanism's recent progress increasing transparency and education regarding its work, including the launch of the Unified Judicial Database in September, additional workshops for educators, and the public streaming of court sessions. These efforts are a valuable contribution to establishing a public record of the crimes committed.

We must re-commit to protecting civilians during armed conflict and holding those who violate international humanitarian law accountable. The Mechanism has been an important part of this work and we continue to support its efforts on behalf of victims.

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3. Other Accountability Proceedings and Mechanisms

a. Special Tribunal for Lebanon

On August 18, 2020, the State Department issued a press statement, available at <https://2017-2021.state.gov/statement-by-secretary-michael-r-pompeo-2/>, welcoming the guilty verdict handed down by the Special Tribunal for Lebanon ("STL") against

Hizballah operative Salim Ayyash for his role in the February 14, 2005 assassination of former Lebanese Prime Minister Rafik Hariri. The press statement further states:

This act of terrorism also claimed the lives of 21 additional victims and resulted in injuries to 226 others. Although Ayyash remains at large, the STL's ruling underscores the importance of rendering justice and ending impunity, which is imperative to ensuring Lebanon's security, stability, and sovereignty.

b. *UN Investigative Team for Accountability of Da'esh/ISIL ("UNITAD")*

On December 10, 2020, Rodney Hunter delivered remarks on behalf of the United States at a UN Security Council briefing by the UN Investigative Team for Accountability of Da'esh/ISIL ("UNITAD"). The U.S. statement is excerpted below and available at <https://usun.usmission.gov/remarks-at-a-un-security-council-briefing-by-the-un-investigative-team-for-accountability-of-daesh-isil-via-vtc-2/>.

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The United States is committed to supporting the critical work of UNITAD to collect, store, and preserve evidence of ISIS's atrocities that may amount to war crimes, crimes against humanity, and genocide.

We urge the Iraqi government to recommit to fair, evidence-based trials that allow the victims and survivors of ISIS's brutality and false ideology to have their day in court. These evidence-based trials will not only establish the clear culpability of ISIS and its members for the perpetration of the atrocities, they will help showcase Iraq's justice system and its commitment to the rule of law.

We are encouraged to hear that the Iraqi parliament is considering legislation that would allow Iraq to prosecute ISIS suspects for international crimes, and we support such efforts. It is imperative that these heinous crimes be labeled for exactly what they were—genocide and crimes against humanity—so that no one can ever doubt what took place, but also to reflect what the Iraqi people have overcome.

We also support UNITAD's expanded cooperation with the Government of Iraq, including with the Iraqi judiciary. We are confident this increased cooperation will contribute to additional successful prosecutions of ISIS members in Iraq and abroad, and that the partnership of the Government of Iraq and the Kurdistan Regional Government with UNITAD will help ensure positive outcomes for Iraq and the victims of these awful crimes.

We know that COVID-19 has further complicated this critical work, worsening already difficult conditions. But despite these obstacles, Iraq's Mass Graves Directorate and the Medico-Legal Directorate, in cooperation with UNITAD, continue to build the capacity of national Iraqi forensic teams to conduct evidence-based investigations and exhumations.

This was evidenced in late October when Iraqi authorities resumed the exhumations of mass graves left by ISIS in Solagh, known as the "Grave of Mothers," where dozens of elderly Yezidi women were executed by ISIS because they were deemed too old to be sold into sexual

slavery. In this case, and in so many others like it, we must never forget the brutality that ISIS inflicted on their victims.

We recognize and applaud the Government of Iraq for its plans to exhume all mass graves and to remember and honor all those victimized by ISIS brutality.

The United States also recognizes that while the evidence-based trials are absolutely critical to justice and to the healing process, so is support for victims and survivors. This includes psychosocial support, as well as the realization of victims' rights through legal proceedings. Exhumations are a painful process that can trigger difficult emotions including sadness, anxiety, anger, loneliness or fear, and we commend UNITAD and its partners for providing psycho-social support to staff, survivors, and family members. We also commend the Iraqi government and the Kurdish regional government for their continuing support of these goals.

In recognition of this critical work, the United States continues its financial support to UNITAD. As we noted in our last meeting on UNITAD, the United States provided \$2 million in support of UNITAD's first exhumations of mass grave sites in Iraq in the Sinjar region. As of December 2020, U.S. funding for UNITAD now totals \$8.85 million, which supports a wide range of different activities associated with UNITAD's mandates.

The United States once again urges Member States to repatriate, prosecute, rehabilitate, and reintegrate, as appropriate, their citizens and nationals who traveled to Iraq to join ISIS. Iraq should not have to continue to shoulder responsibility for these foreign terrorist fighters and associated family members alone. We note the valuable support UNITAD can provide to other Member States in conducting such investigations and prosecutions.

We thank the Government of Iraq and UNITAD for their continuing cooperation and work to hold ISIS accountable for all its atrocities.

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c. *Burma*

On August 25, 2020, the State Department issued a press statement calling for justice and accountability for the attacks on Rohingya in Burma. The statement, available at <https://2017-2021.state.gov/united-states-continues-to-call-for-justice-and-accountability-in-burma/>, is excerpted below.

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Three years after Burma's security forces launched brutal attacks against hundreds of thousands of Rohingya men, women, and children, the United States reiterates its call for justice for victims and accountability for those responsible. In addition, in the face of escalating fighting in Rakhine State, we urge a cessation of violence, dialogue, renewed efforts to protect local communities, and unhindered access for humanitarian assistance. The United States remains concerned over the killing of members of local communities and displacement of thousands, which undermines prospects for the voluntary return of refugees and internally displaced persons and erodes prospects for peace.

We urge authorities in Burma to establish conditions conducive to the safe, voluntary, dignified, and sustainable return of refugees and internally displaced persons, and to deepen efforts to implement recommendations from the Kofi Annan-led Advisory Commission on Rakhine State. Since 2017, the United States has provided more than \$951 million to ease the humanitarian suffering of all affected by the crisis in Burma and Bangladesh. We deeply appreciate Bangladesh's continued generosity in hosting more than 860,000 Rohingya. We call on other nations to ensure continued humanitarian support to Rohingya and to deepen efforts to resolve the crisis.

The United States has taken strong actions to promote justice for victims and accountability for those responsible for atrocities. Those actions include imposing financial sanctions and visa restrictions on top military leaders and units linked to serious human rights abuses, supporting UN investigation mechanisms, and encouraging Burma to participate fully in International Court of Justice (ICJ) proceedings and to comply with court orders. We appreciate the sustained commitment of the international community to hold the perpetrators of these atrocities to account. Much more remains to be done.

The United States will continue to partner with the people of Burma as they work to overcome the legacy of authoritarian rule, expand democracy, and achieve peace.

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d. *UN Independent International Commission of Inquiry on Syria*

Ambassador James Jeffrey issued a statement on July 8, 2020 welcoming the UN Commission of Inquiry on Syria's July 7 report. Ambassador Jeffrey's statement is available at <https://geneva.usmission.gov/2020/07/09/statement-by-ambassador-jeffrey-on-the-un-coi-on-syrias-july-7-report/>, and excerpted below.

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The Commission's report, focusing on the period from November 2019 to June 2020, notes the devastating impacts of Syrian regime and Russian assaults in Idlib province on Syrian civilians, millions of whom were already displaced from their homes by the regime's reckless and destructive campaign of violence. The report concluded that attacks by pro-regime forces are responsible for 534 of the 582 confirmed civilian casualties that the COI investigated and many instances of mass forced displacement investigated in the reporting period. This is further confirmation of the culpability of the Assad regime and its enablers for the vast majority of atrocities inflicted on the Syrian people, as well as dire ongoing humanitarian conditions, including lack of humanitarian access. Today's report is an important step to hold the Assad regime and its military allies, Russia and Iran, accountable for their attacks on the Syrian people. Moreover, the findings of the Commission of Inquiry are fully consistent with other recent reports, including the UN Board of Inquiry on Northwest Syria, and the report by the Organization for the Prohibition of Chemical Weapons Investigation and Identification Team, that document the Assad regime's atrocities.

The United Nations report states that it has “reasonable grounds to believe that pro-regime forces committed the war crimes of deliberately attacking medical personnel and facilities by conducting airstrikes” as well as “the war crime of launching indiscriminate attacks resulting in death or injury to civilians ...” and furthermore “that members of pro-government forces, and in particular the 25th Special Mission Forces Division, committed the war crime of pillage.” This is in addition to the report stating that pro-regime forces likely committed “the war crime of spreading terror among the civilian population.” The report also finds “that there are reasonable grounds to believe that members of HTS committed [various] war crimes.

The report notes that “pro-government forces carried out attacks consistent with clear patterns previously documented by the Commission, affecting markets and medical facilities” and that “attacks on schools have emerged as one of the most vicious patterns in the Syrian conflict.” This report also substantively builds on the Board of Inquiry report the Secretary General released in April which concluded that the Assad regime and its allies were likely responsible for attacks impacting hospitals in northwest Syria that were part of the UN’s deconfliction mechanism to ensure they would not be targeted by violence. We have noted this pattern of attacks elsewhere, as well as the regime’s continued use of chemical weapons, some of which rise to the level of war crimes and crimes against humanity. We deplore and condemn in the strongest terms the continued armed violence and atrocities committed by the regime against its own people, demand that the regime immediately put an end to all attacks against civilians, and that all individuals responsible for atrocities be held to account.

The United States remains committed to a sustained campaign of economic and political pressure to deny the Assad regime revenue and support it uses to wage war and commit mass atrocities against the Syrian people. Only a political resolution of the conflict as called for by UNSCR 2254 can establish an enduring peace to end the suffering of the Syrian people. We also strongly support urgently renewing UN Security Council resolution 2504 (2020), authorizing the UN to undertake life-saving cross-border humanitarian aid deliveries through essential crossing points, which are the lifeline for millions of Syrians still suffering from the atrocities detailed in the Commission’s report.

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Cross References

In re Evison, **Ch. 5.A.2**

Children in Armed Conflict, **Ch. 6.C.1**

Aybar-Ulloa (case involving jurisdiction over drug trafficking on stateless vessels), **Ch. 12.A.5**

Wildlife trafficking, **Ch. 13.C.4**

Sudan (rescission of state sponsor of terrorism designation), **Ch. 16.A.7**

Sanctions related to cyber activity, **Ch. 16.A.8 &16.A.11**

Terrorism related sanctions, **Ch. 16.A.10**

Syria, **Ch. 17.A.3**

Applicability of international law to conflicts in cyberspace, **Ch. 18.A.4.b**

Chemical weapons in Syria, **Ch. 19.D.1**